

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:) Case Nos. 80-CE-263-EC
) 80-CE-264-EC
) (8 ALRB No. 55)
LU-ETTE FARMS, INC., and)
D AND D FARMS, INC., and)
DERRICK RANCHES, INC., as a) 83-CE-14-EC
Single Integrated Enterprise) 83-CE-50-EC
and as the Successors to or) 83-CE-53-EC
Alter Egos of LU-ETTE FARMS,) 83-CE-82-EC
Inc., and WILLIAM H. DANIELL,) (11 ALRB No. 4)
an Individual, and DERRICK DANIELL,)
an Individual,) 83-CE-54-EC
) (11 ALRB No. 20)
Respondents,)
) 86-CE-45-EC
and) 86-CE-46-EC
) 86-CE-64-EC
UNITED FARM WORKERS)
OF AMERICA, AFL-CIO,)
)
Charging Party.)

In the Matter of:) Case Nos. 79-CE-48-EC
) 79-CE-218-EC
) 80-CE-22-EC
LU-ETTE FARMS, INC., and)
D AND D FARMS, INC., and)
DERRICK RANCHES, INC., as a)
Single Integrated Enterprise)
and as the Successors to or)
Alter Egos of LU-ETTE FARMS,) **Admin. Order No. 2011-05**
Inc., and WILLIAM H. DANIELL,)
an Individual, and DERRICK DANIELL,) **ORDER REQUESTING ADDITIONAL**
an Individual,) **INFORMATION ON REGIONAL**
Respondents,) **DIRECTOR'S MOTION TO MAKE**
) **CASES ELIGIBLE FOR PAY OUT**
and) **FROM THE AGRICULTURAL**
) **EMPLOYEE RELIEF FUND AND**
) **MOTION TO CLOSE CASES**
UNITED FARM WORKERS)
OF AMERICA, AFL-CIO,)
)
Charging Party.)

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| In the Matter of: |) | Case Nos. 79-CE-7-EC |
| |) | 79-CE-28-EC |
| LU-ETTE FARMS, INC., and |) | 79-CE-29-EC |
| D AND D FARMS, INC., and |) | 83-CE-54-EC |
| DERRICK RANCHES, INC., as a |) | |
| Single Integrated Enterprise |) | |
| and as the Successors to or |) | |
| Alter Egos of LU-ETTE FARMS, |) | |
| Inc., and WILLIAM H. DANIELL, |) | |
| an Individual, and DERRICK DANIELL, |) | |
| an Individual, |) | |
| |) | |
| Respondents, |) | |
| |) | |
| and |) | |
| |) | |
| UNITED FARM WORKERS |) | |
| OF AMERICA, AFL-CIO, |) | |
| |) | |
| Charging Party. |) | |

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| In the Matter of: |) | |
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| LU-ETTE FARMS, INC., and |) | Case No. 79-CE-4-EC |
| D AND D FARMS, INC., and |) | |
| DERRICK RANCHES, INC., as a |) | |
| Single Integrated Enterprise |) | |
| and as the Successors to or |) | |
| Alter Egos of LU-ETTE FARMS, |) | |
| Inc., and WILLIAM H. DANIELL, |) | |
| an Individual, and DERRICK DANIELL, |) | |
| an Individual, |) | |
| |) | |
| Respondents, |) | |
| |) | |
| and |) | |
| |) | |
| UNITED FARM WORKERS |) | |
| OF AMERICA, AFL-CIO, |) | |
| |) | |
| Charging Party. |) | |

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| In the Matter of: |) | Case Nos. 79-CE-125-EC |
| |) | 79-CE-199-EC |
| LU-ETTE FARMS, INC., |) | 80-CE-38-EC |
| |) | |
| Respondent, |) | 12 ALRB No. 3 |
| |) | (8 ALRB No. 91) |
| and |) | |
| |) | |
| UNITED FARM WORKERS |) | |
| OF AMERICA, AFL-CIO, |) | |
| |) | |
| Charging Party. |) | |
| |) | |
| In the Matter of: |) | Case Nos. 82-CE-29-EC |
| |) | 82-CE-38-EC |
| LU-ETTE FARMS, INC., |) | 82-CE-44-EC |
| |) | |
| Respondent, |) | |
| |) | 10 ALRB No. 20 |
| and |) | |
| |) | |
| UNITED FARM WORKERS |) | |
| OF AMERICA, AFL-CIO, |) | |
| |) | |
| Charging Party. |) | |

On February 14, 2011, the Visalia Regional Director filed a Motion to Make Cases Eligible for Payout from the Agricultural Employee Relief Fund (AERF). The motion set forth the Region’s efforts to seek compliance with the Board’s orders in these matters and its efforts to collect amounts owed from the above-named Respondents.

The requirements for a motion seeking a determination of eligibility for payout under the AERF are described in Board regulation 20299 (b),¹ which indicates that such a motion "shall be accompanied by a statement describing the collection

¹ The Board’s regulations are codified at Title 8, California Code of Regulations, section 20100, et. seq.

efforts made to date and the basis for the regional director's belief that collection of the full amount owing is not possible." The regulation further provides that it shall be deemed to include a simultaneous motion to close pursuant to the standards set forth in *John V. Borchard, et. al.* (2001) 27 ALRB No. 1.²

In *Borchard*, the Board found a motion to close will be supported when it contains a "detailed description of what has been done to achieve full compliance with the Board's order in the case ... a chronological summary of key steps taken to achieve compliance, factors preventing full compliance, and the reasons why there is no reasonable likelihood that further efforts will be successful." The decision provided some specific examples of what the detailed description should include, such as efforts to settle, the result of bankruptcy proceedings, the possibility of derivative liability or the possibility of individual liability of corporate officers.

The Regional Director's motion states that on January 18, 1991, the Administrative Law Judge (ALJ) issued a decision and order finding that the makewhole and backpay amount owed by Respondents was \$3,753,865.40, excluding interest. The ALJ's decision was made final by the Board on February 14, 1991. All the Respondent entities were found to be jointly and severally liable for this amount.

The next chronological event mentioned in the Regional Director's motion is the granting of an enforcement order by the Superior Court on September 9, 1992 and filing of an abstract of judgment in Superior Court against Respondents for

² As the Board indicated in *Andreas Farms, LLC* (2005) 31 ALRB No. 2, the Board interprets the cited language of section 20299 (b) as consistent with the standards set forth in *John V. Borchard, supra*, and therefore relies on the fuller explication of the requirements for a motion to close set forth in that case.

\$6,508,888.05 on September 15, 1992. There is no information provided in the motion about collection and enforcement efforts made by the Region during the 20 month period between the ALJ's Decision becoming final and the court enforcement efforts. Therefore, the Board requests that the Region provide supplemental information, if any, detailing enforcement efforts between February 14, 1991 and September 15, 1992.

The Regional Director's motion also states that searches as recent as 2011 have revealed that Respondent and all related entities are not in operation, own no real property, and have no assets to pay the amounts owed. The motion also states that there are no other entities that could be held derivatively liable for the amounts owed. However, the motion fails to provide details about what type of searches were done, and specifically what information these searches revealed. Therefore, the Board requests detailed information regarding efforts to seek derivative liability for the amounts owed, and any additional information supporting the Regional Director's conclusion that collection of make whole and back pay amounts in these cases is not possible.

The Board further requests that the Regional Director file the supplemental information on or before April 15, 2011.³

By Direction of the Board.

Dated: March 30, 2011

J. ANTONIO BARBOSA
Executive Secretary, ALRB

³ Note that upon the filing of the Regional Director's supplemental information, a new response period pursuant to Board regulation section 20299(b) will be triggered.