

**STATE OF CALIFORNIA**  
**AGRICULTURAL LABOR RELATIONS BOARD**

In the Matter of:	)	
	)	
TENNECO FARMING COMPANY,	)	No. 75-RC-39-F
	)	
Employer,	)	
	)	3 ALRB No. 20
and	)	
	)	
WESTERN CONFERENCE	)	
OF TEAMSTERS,	)	
	)	
Petitioner,	)	
	)	
and	)	
	)	
UNITED FARM WORKERS	)	
OF AMERICA, AFL-CIO,	)	
	)	
Intervenor.	)	
	)	

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On September 11, 1975, an election was conducted among the agricultural employees of the employer, Tenneco Farming Company. The tally of ballots served upon the parties after the election showed the following results:

Votes Cast for Petitioner	204
Votes Cast for Intervenor	203
Votes Cast for No Labor Organization	251
Void Ballots	11
Challenged Ballots	129

Since the challenged ballots would be determinative of the parties to a runoff election, the regional director of the Agricultural Labor Relations Board, Fresno office, conducted an investigation of the challenges and issued a report on challenged ballots, dated January 28, 1976, pursuant to 8 California Administrative Code Section 20365(e)(i) [repealed and readopted as 8 California Administrative Code Section 20365]. The employer, the petitioner and the intervenor all filed objections to the

election and exceptions to the regional director's report on challenged ballots. Hearings on the objections have been delayed by agreement of the parties pending the Board's resolution of certain procedural questions.<sup>1/</sup> The challenged ballots also await resolution by this Board, but the distribution of the total votes cast is such that no matter how the challenges are resolved, no party would attain a majority and thereby avoid a runoff.

As with many other cases, the proceedings here have been seriously impeded by the funding crisis which stopped the Board's day-to-day operations throughout much of 1976. Even after this length of time, a runoff election is all that can be achieved through further processing of this case. Since a hearing on the objections to the election has yet to take place, a runoff might not be possible until Respondent's peak season of 1978.

A runoff election held two or three years after the initial election would result in the disenfranchisement of many current employees if, as specified in the new regulation<sup>2/</sup> pertaining to runoff elections, the original eligibility list is used. If a current payroll list is used to determine eligibility, the voters will find themselves restricted to choices determined by an earlier, and perhaps entirely different, electorate.

The Agricultural Labor Relations Act is plainly geared to a speedy resolution of questions of employee representation [see, e.g., Labor Code Section 1156.3(4)], and it is clear that

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<sup>1/</sup> These questions involve the applicability of the old (1975) and new (1976) regulations, the appropriateness of a runoff election, the timeliness of the petitioner's objections petition, and the desirability of continuing the hearing on objections until resolution of the challenged ballot issues by the Board.

<sup>2/</sup> 8 California Administrative Code, Section 20375.

runoff elections were contemplated as taking place within a reasonably short period after an election in which none of the parties receives an outright majority. Because of the difficulties arising from the already considerable lapse of time since the election in this case/ it would not serve the purposes and policies of our Act to continue to proceed toward a runoff election. Therefore, we deem it appropriate for the representation question to be resolved by means of a rerun election which would supplant the ongoing proceedings in this case.<sup>3/</sup>

The following conditions shall apply to the rerun election:

1. The rerun election shall be initiated upon the motion of either of the unions participating in the original election; however, no union shall be precluded from intervening regardless of its participation or lack of participation in the original election.

2. The rerun election shall take place during employer's peak season within the next 12 months;

3. The exact day and time shall be determined by the regional director;

4. All choices appearing on the ballot in the initial election will appear on the ballot in the rerun election;

5. As the rerun election stems from an election conducted within 18 months of the effective date of the ALRA,

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<sup>3/</sup> This solution comports with Section 20372 (a) of the regulations of 1976 which provides that a rerun may be directed "where circumstances make it physically impossible to determine the outcome of the first election". While the outcome of the first election here could eventually be determined, it is physically impossible to determine that outcome within a reasonable period of time and thereby effectuate the purposes and policies of the Act.

economic strikers eligible to vote in the initial election shall be allowed to cast challenged ballots in the rerun;<sup>4/</sup> and

6. Any runoff that is required as a result of the rerun election shall be conducted in the expedited manner set forth in Section 20375 of the new regulations.

Dated: February 28, 1977

Gerald A. Brown, Chairman

Richard Johnsen, Jr., Member

Robert B. Hutchinson, Member

Ronald L. Ruiz, Member

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<sup>4/</sup> Labor Code Section 1157 provides, in part, that, "In the case of elections conducted within 18 months of the effective date of this part which involve labor disputes which commenced prior to such effective date, the board shall have the jurisdiction to adopt fair, equitable, and appropriate eligibility rules, which shall effectuate the policies of this part, with respect to the eligibility of economic strikers ... ;"

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WESTERN CONFERENCE	)	MODIFICATION
OF TEAMSTERS,	)	OF DECISION
	)	
Petitioner,	)	
	)	
and	)	
	)	
UNITED FARM WORKERS	)	
OF AMERICA, AFL-CIO,	)	
	)	
Intervenor.	)	

The decision in this case is hereby modified by changing condition number 4 on page 3 to read as follows:

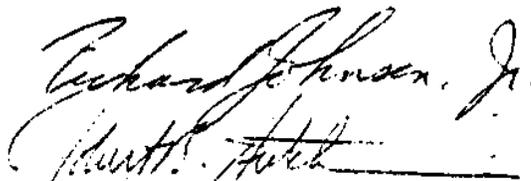
4. All choices appearing on the ballot in the initial election will appear on the ballot in the rerun election; provided, however, that any union which was listed on the ballot in the original election, and which desires to participate in the rerun election, must file a motion to be included on the ballot for the rerun election.

Dated: March 30, 1977

Gerald A. Brown, Chairman



Richard Johnsen, Jr., Member



Robert B. Hutchinson, Member

Ronald L. Ruiz, Member

