

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

MUSHROOM FARMS, INC.,)	Case No.	2016-MMC-001
)		
Employer,)		
)		
and)		
)	42 ALRB No. 3	
UNITED FOOD AND COMMERCIAL)		
WORKERS, LOCAL 5,)	(August 17, 2016)	
)		
<u>Petitioner.</u>)		

DECISION AND ORDER

The United Food and Commercial Workers, Local 5 (UFCW), the certified bargaining representative of the agricultural employees of Mushroom Farms, Inc. (Employer), has filed a declaration with the Agricultural Labor Relations Board (Board) pursuant to Labor Code section 1164 et seq., requesting that the Board issue an order directing the parties to mandatory mediation and conciliation of their issues. The declaration was served on the Employer on August 9, 2016. On August 16, 2016, the Employer submitted by fax a declaration in response to the UFCW's declaration.

The relevant prerequisites for referral to mandatory mediation and conciliation are set forth in Labor Code section 1164, subdivision (a), and section 20400, subdivision (b), of the Board's regulations (Cal. Code Regs., tit. 8, § 20400, subd. (b)).¹

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

If, as here, the labor organization was certified after January 1, 2003, either party may file a request for mediation any time following 90 days after an initial demand to bargain. The filing party must submit a declaration stating that the parties are subject to an existing certification, that they have failed to reach a collective bargaining agreement, and that the employer has employed 25 or more agricultural employees during any calendar week in the year preceding the filing of the declaration and request for mediation. In addition, the declaration must be accompanied by any documentary or other evidence that supports the above statements.

In this case, the UFCW has submitted a declaration that meets the prerequisites listed above. The certification issued on January 19, 2016. The declaration states that an initial demand to bargain was made on January 29, 2016, that the parties have failed to reach a collective bargaining agreement, and that the Employer employed the requisite 25 agricultural employees. The Employer's responsive declaration admits the truth of the factual prerequisites to mandatory mediation and conciliation.²

ORDER

Accordingly, pursuant to Labor Code section 1164, subdivision (b), and section 20402 of the Board's regulations, the parties in this matter are hereby directed to mandatory mediation and conciliation.

² The Employer's answer to the UFCW's declaration, styled as a "declaration in response," was due on August 15, 2016, and thus was untimely when submitted on August 16. (Cal. Code Regs., tit. 8, § 20401.) However, as the Employer does not dispute any of the statements in the UFCW's declaration, and is itself requesting referral to mandatory mediation and conciliation, the Board accepts the Employer's filing.

The mandatory mediation process is governed by Labor Code sections 1164 through 1164.13 and sections 20400 through 20408 of the Board's regulations. Upon the issuance of this Order, the Board shall request that a list of nine mediators be compiled by the California Mediation and Conciliation Service and be provided to the parties. (Lab. Code, § 1164, subd. (b); Cal Code Regs., tit. 8, § 20402, subd. (b).) The parties shall then have seven (7) days from the receipt of the list to select a mediator in accordance with Labor Code section 1164, subdivision (b), and section 20403 of the Board's regulations.

DATED: August 17, 2016

William B. Gould IV, Chairman

Genevieve A. Shiroma, Member

Cathryn Rivera-Hernandez, Member