

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)	Case No. 06-MMC-3-VI
)	
SAM & CARMEN KNEVELBAARD dba)	ORDER DIRECTING
BAYOU VISTA DAIRY, BAYOU VISTA)	PARTIES TO MANDATORY
FARMS WEST, KNEVELBAARD CALVES)	MEDIATION AND
and HORSESHOE TRANSPORTATION,)	CONCILIATION
LLC,)	
)	
Employer,)	Admin. Order No. 2006-09
)	
and)	
)	
UNITED FOOD AND COMMERCIAL)	
WORKERS UNION, LOCAL 1096,)	
)	
<u>Certified Bargaining Representative.</u>)	

BACKGROUND

On October 5, 2006, the United Food and Commercial Workers Union, Local 1096 (Union or UFCW), the certified bargaining representative of the agricultural employees of Sam & Carmen Knevelbaard dba Bayou Vista Dairy and Bayou Vista Farms West and Knevelbaard Calves and Horseshoe Transportation, LLC (Bayou Vista), 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.

DISCUSSION

The relevant prerequisite conditions for referral to mandatory mediation and conciliation are set forth in Labor Code sections 1164 (a) and section 20400 (b) of the Board's regulations. If, as here, the labor organization was certified after January 1, 2003, either party may file a request for mediation any time following 180 days after an initial demand to bargain. If the above condition is met, either party may submit a declaration that the parties have failed to reach a collective bargaining agreement, and request that the Board issue an order directing the parties to mandatory mediation and conciliation.

For the purposes of Labor Code sections 1164-1164.13, the agricultural employer must have employed 25 or more agricultural employees during any calendar week in the year preceding the filing of the declaration and request for mediation.

A. Union's Declaration and Request for Mediation

The declaration of UFCW President Pete Maturino (Maturino) that accompanies the Union's request, along with supporting documentation, indicates that the UFCW was certified as the exclusive bargaining agent of the agricultural employees at Bayou Vista on June 15, 2005. Maturino's declaration states that the Union made its initial demand to bargain on June 17, 2005; therefore the 180 day period following the initial demand to bargain has elapsed. The declaration further states that Bayou Vista has employed more than 25 employees in many calendar weeks in the past year, and that the parties have

never had a collective bargaining agreement between them. Maturino's declaration describes the parties' attempts to reach a collective bargaining agreement during negotiation sessions that occurred between October 5, 2005 and June 12, 2006, and states that on or about July 12, 2006, the employees had voted to reject Bayou Vista's, best final offer.

B. No Answer to the Declaration and Request Has Been Filed

Under section 20401(a) of the Board's regulations, the other party to the collective bargaining relationship may file an answer to the declaration within three (3) days of service of the declaration. The answer must identify any items in the declaration that are disputed. Bayou Vista's answer in this matter was due on October 11, 2006. None was received. On October 12, 2006, the Employer's representative, Robert Marciel, advised the Executive Secretary's office that he was not planning to file an answer to the declaration.

CONCLUSION

The Board has evaluated the declaration in this matter in accordance with section 20402 of the Board's regulations, and finds that the threshold requirements for referral to mediation set forth in Labor Code sections 1164 (a) and regulation section 20400 (b) are met.

PLEASE TAKE NOTICE that pursuant to Labor Code section 1164(b) and section 20402 of the Board's regulations, the parties in the above matter are directed to mandatory mediation and conciliation of their issues. The mandatory mediation process is governed by Labor Code sections 1164-1164.13 and sections 20400-20408 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. 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 (b) and section 20403 of the Board's regulations.

By Direction of the Board.

Dated: October 19, 2006

JOSEPH WENDER
Acting Executive Secretary, ALRB