

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)
)
VALLEY VIEW FARMS and) Case No. 2006-MMC-02
VALLEY VIEW DAIRY,)
)
Employer,) ORDER DIRECTING PARTIES
) TO MANDATORY MEDIATION
) AND CONCILIATION
and)
) Admin. Order No. 2006-08
UNITED FOOD AND COMMERCIAL)
WORKERS UNION, LOCAL 1096,)
)
Petitioner.)
_____)

BACKGROUND

On September 25, 2006, the United Food and Commercial Workers Union, Local 1096 (Union or UFCW), the certified bargaining representative of the agricultural employees of Valley View Farms & Valley View Dairy (Employer), 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. ¹

¹ The provisions governing the mandatory mediation and conciliation process are found at Cal. Labor Code sections 1164-1164.13, and Cal. Code of Regulations, Title 8, sections 20400-20408.

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 Valley View Farms and Valley View Dairy on April 22, 2005. Maturino's declaration states that the Union made its initial demand to bargain on April 25, 2005; therefore the 180 day period following the initial demand to bargain has elapsed. The declaration further states that Valley View Farms has employed more than 25 employees 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 July 25, 2005 and March 14, 2006, and states that by April 7, 2006, the employees had voted to reject the Employer's last, 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. Employer's answer in this matter was due on October 2, 2006. None was received. On October 11, 2006, the Employer's representative, Robert Marciel, confirmed during a telephone conversation with 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 12, 2006

J. ANTONIO BARBOSA
Executive Secretary, ALRB