

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

BOARD MEETING MINUTES

Board Conference Room
915 Capitol Mall, 3 rd floor
Sacramento, CA 95814

May 15, 2002

Time: 10:00 a.m.
Members Present: Chairwoman Shiroma, Board Members Barrios and Mason.
Staff Present: Executive Secretary Barbosa, Board Counsel Wender, Murray, and Heyck, Analyst Massie, Board Staff Nuno.
Others Present:
Absent: Board Counsel Levy

OPEN SESSION

1. **APPROVAL OF MINUTES:** The Board approved minutes for May 8, 2002, 3-0.
2. **PUBLIC COMMENT:** None.
3. **BOARD MEMBER COMMENT:** None.
4. **ANNOUNCEMENTS:**

Executive Secretary Barbosa announced that the meeting with Employment Development Department (EDD) personnel has been confirmed for May 20, 2002. It will be held from 11:00 a.m. to 2:15 p.m. An informational packet, including a final agenda has been circulated to staff.

5. **WEEKLY STATUS REPORT ON ELECTIONS, UNFAIR LABOR PRACTICE COMPLAINTS, HEARINGS AND COURT LITIGATION:**

ELECTIONS REPORT:

NOTICE OF INTENT TO TAKE ACCESS AND NOTICE OF INTENT TO ORGANIZE: No new filings reported.

Election Petitions:
Sonoma Cutrer Vineyards, Inc., 02-RC-1-SAL

The UFW filed its objections to the election on March 22, 2002. The objections are being screened by the Executive Secretary. The matter is pending the Regional Director's Challenged Ballot Report. The Executive Secretary's review of election objections will follow.

Albert Goyenette Dairy, 02-RC-1-VI

On May 8, 2002, the investigative hearing examiner issued her recommended decision in this matter. She found that Jose Luis Isusquiza was a statutory supervisor and recommend that the challenge to his ballot be sustained and the results of the election be certified. Exceptions are due by June 7, 2002, and replies are due by June 17, 2002.

Ventura Coastal Corporation, 01-RC-2-EC

The election was held April 5, 2002 with the following tally:

UFW	0
No Union	0
UCB's	141
Total	141

The unresolved challenged ballots are outcome determinative. The Regional Director's investigation of the challenges is underway. The parties' positions have been received and are being reviewed. Both the UFW and Employer filed objections to the election, and they are under review.

Robert R. Hall, 02-UC-1-EC(SD)

On March 27, 2002, the UFW filed an UC petition seeking to clarify a unit consisting of three entities: Encinitas Plant Company, Robert R. Hall, Inc., and Bruce N. Hall. On May 10, 2002 the Regional Director completed his investigation and determined that in order to decide the issues presented in this case an investigative hearing was necessary. Accordingly, the Executive Secretary will issue an order setting the matter for hearing.

COMPLAINT REPORT:

One new complaints has issued:

D'Arrigo Bros. of California, 01-CE-16-SAL

Employer allegedly failed to provide certified union with information it requested.

No new cases have been set for hearing:

No pre-hearing conferences held.

One case pending post-hearing briefs:

Pictsweet Mushroom Farms, 00-CE-332-EC(OX)
Post-hearing briefs due May 29, 2002.

One case pending ALJ decision:
McCaffrey Goldner Roses, 00-CE-92-VI
Post-hearing briefs received May 14, 2002.

Five cases on calendar:
California Redi-Date, 00-CE-336-EC
Pre-hearing conference July 9, 2002
Hearing July 23, 2002.

Rivera Vineyard, 01-CE-317-EC(R)
Pre-hearing conference August 13, 2002
Hearing August 27, 2002.

Cocopah Nurseries, Inc., 00-CE-399-EC
Pre-hearing conference September 17, 2002
Hearing September 24, 2002.

Desert Citrus Properties, Inc., 01-CE-178-EC(R)
Pre-hearing conference October 10, 2002
Hearing October 29, 2002.

Pete Vanderham Dairy, Inc., 01-CE-996-EC(R)
Pre-hearing conference December 10, 2002
Hearing December 17, 2002.

No new cases transferred to the Board for decision.

BOARD DECISIONS: No new decisions have issued.

COURT LITIGATION:

Turco Desert Co., Inc., E030125 (27 ALRB No. 4): The matter is pending notification from the court on the need for oral argument.

Cieniga Farms, Inc., B152844 (27 ALRB No. 5): Petitioner filed its opening brief on February 26, 2002. The Board's response brief was filed April 25, 2002. The matter is pending the petitioner's reply brief, if any.

The Elmore Company, D040054 (28 ALRB No. 3)
The employer filed a petition for writ of review with the Fourth Appellate District Court of Appeal on May 7, 2002. The certified record was mailed to the court on May 13, 2002. The matter is pending the filing of the Petitioner's opening brief.

COMPLIANCE: No new activity to report.

6. BUDGET AND ADMINISTRATION:

- (a) **Information Technology and Web Site Development Project** – Program Services Manager Winston submitted his response to inquiries submitted by the Board re the tracking of case data.
- (b) **Regulations** – Senate Bill 1198 (Agricultural Employee Relief Fund) Regulation Error: Board Counsel Wender reported that in compiling the rulemaking file for submission to the Office of Administrative Law (OAL), he discovered that there was no evidence that the Notice of Proposed Regulatory Action was mailed to interested parties at the beginning of the comment period as required. The Board voted 3-0 to rescind its May 8, 2002 vote to approve the regulation, and to extend the written comment period. The Notice will be now mailed to interested parties with a letter of explanation. Following an additional 45-day written comment period, the Board will take a new vote on the regulation.

On May 9, 2002, the Office of Administrative Law approved the Board's regulatory package amending 20202, 20206, 20210, 20224, 20234, 20298, 20350, 20363, 20910 and repealing 20106 (contents of authorization cards), 20205 (number of copies of charges) and 20213 (ulp declarations by charging parties). The new regulations streamline and clarify procedures relating to the use of authorization cards, filing and service of charges, processing of settlement agreements and confidentiality of challenged ballot declarations.

- (c) **Budget** – Review of Board/Executive Secretary Budget Requests (Cost Figures): The Board reviewed Board/Executive Secretary budget requests, and approved several year-end expenditures.

May Revise – On May 14, 2002, the Governor issue his revised budget for fiscal year 2002/03. Due to the State's current General Fund constraints, the Governor proposed a reduction of \$519,000.00 for the Agricultural Labor Relations Board.

- (d) **Policies and Procedures** – Update – No new activity to report.
- (e) **The Labor and Workforce Development Agency** – Two-day planning session is scheduled for May 19 and 20, 2002. In his May revise, the Governor proposed a redirection of \$32,000.00 General Fund and \$1.4 million in additional special and federal fund reimbursements from the Employment Development Department (EDD) to support the operations of the California Labor and Workforce Development Agency, which is proposed pursuant to Governor's Reorganization Plan No. 1 of 2002.

- (f) **Lease Renegotiation** – Board Counsel Heyck reported that the Department of General Service (DGS) Real Estate Division had spoken with the landlord about the proposed lease. The Board had further questions about the proposal and requested that Board Counsel Heyck follow up with DGS before making a decision about the lease.
 - (g) **Association of Labor Relations Agencies Conference** – The Board discussed attending the Association of Labor Relations Agencies (ALRA) conference which will be held in San Diego on July 20-24, 2002. The agenda for the conference can be viewed at: <http://www.alra.org/program.2002.htm>
 - (h) **National Labor Relations Board (NLRB) Conference – Travel Arrangements-** The Board discussed travel arrangements for those attending the NLRB Conference in San Francisco on May 17, 2002.
7. **OUTREACH PROJECT:** Novella – The revised introduction to the novella has been completed and the novella should be available for submission to the ad hoc committee by the end of next week or sooner.
8. **LEGISLATION** – Update on Pending Bills that May Affect the ALRB: Board Counsel Wender reported:
- 1) there was a hearing set on **Constitutional Amendment 7** (providing that access to public records is a fundamental right) for May 21, 2002;
 - 2) **Senate Bill 1236** (Labor and Workforce Development Agency) had been amended on May 14, 2002 and re-referred to the Committee on Appropriations, and the Governor's Reorganization Plan #1 is slated to be heard in the Senate Rules Committee on May 15, 2002;
 - 3) **Senate Bill 1736** (arbitration in agricultural employee-employer disputes) passed (8-5) the Committee on Appropriations on May 13, 2002. On May 14, 2002, the bill was read a second time, and amended to include a provision clarifying that the arbitrators are to be paid by the parties;
 - 4) **Senate Bill 1818** (back pay awards), which formerly contained unrelated subject matter, was amended on May 9, 2002, in an attempt to counteract the U.S. Supreme Court's decision in *Hoffman Plastic Compounds v. NLRB*. The bill would provide that where back pay awards are preempted by federal immigration law, the amount of the back pay award shall instead be levied as a civil penalty, and the affected employee may recover the amount of the penalty. If this latter provision is found to be preempted, the penalty shall be deposited in a special fund named the "Victimized Workers Labor Rights Enforcement Fund, to be administered by the Director of Industrial Relations. The text of the bill can be viewed at:
http://info.sen.ca.gov/pub/bill/sen/sb_1801-1850/sb_1818_bill_20020509_amended_sen.html

Board Minutes
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- 9. PERSONNEL:** None.
- 10. COMPLIANCE:** Board Counsel Murray reported on ongoing issues he has been examining with regard to compliance.
- 11. FUTURE AGENDA REVIEW:** None.

PUBLIC MEETING ADJOURNED AT: 11:15 a.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION.