

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

May 21, 2008

Time: 10:00 a.m.
Members Present: Chairman Almaraz, Members Shiroma and Rivera-Hernandez
Staff Present: Executive Secretary Barbosa, Board Counsel Wender, Heyck and
Robinson, Analyst Massie and General Counsel Lee
Others Present: C. Brian Little, Farm Employers Labor Service

OPEN SESSION

- 1. Approval of Minutes:** The Board minutes for May 8, 2008 were approved 3-0.
- 2. Public Comments:** Chairman Almaraz welcomed Brian Little of the Farm Employers Labor Service. Mr. Little informed the Board that the Farm Employers Labor Service has a video on their website and on MySpace entitled Orientation to Heat-Illness Prevention.
- 3. Chairman Report** – Chairman Almaraz reported on the Labor and Workforce Development Agency meeting. Executive Order S-04-08 directing agency secretaries and department directors to encourage use during the Interstate 5 closures in the impacted Sacramento area of telecommute programs, alternative work schedules, public transit, and video and teleconferencing was discussed. The goal is to continue to provide service to our constituents. In light of the I-5 closure, the Board meeting will be moved to Wednesday, June 11. The hands-free cell phone law will become effective July 1. Staff will be reminded in mid-June of the new law. The ALRB's Heat Stress public service announcement will be re-released to radio stations.
- 4. General Counsel Report:** Twelve new charges have been filed in the regional offices since our last meeting.
- 5. Executive Officer Report:**

ELECTION REPORT:

NOTICE OF INTENT TO TAKE ACCESS (NA) AND NOTICE OF INTENT TO ORGANIZE (NO):

Two NAs and one NO have been filed since the last Board meeting on May 8, 2008.

UFW filed a notice of intent to take access (NA) at Kyle Matheson Orchards on May 9, 2008. UFCW Local 5 filed an NA at Charles Ahlem Ranch, Ahlem West Dairy, Double Cross Dairy and CMA Livestock on May 20, 2008. UFCW Local 5 also filed an NO at Charles Ahlem Ranch, Ahlem West Dairy, Double Cross Dairy and CMA Livestock on May 20, 2008.

PENDING ELECTION MATTERS:

Gallo Vineyards, Inc., 07-RD-1-SAL

On June 18, Roberto Parra filed a decertification petition seeking to remove the United Farm Workers of America as the exclusive bargaining representative of Gallo's agricultural employees in Sonoma County. The petition lists the approximate number of employees in the unit as 400. The election was held on June 25, 2007 and yielded the following results:

UFW	95
No union	125
Unresolved Challenged Ballots	<u>12</u>
Total	232

On July 2, 2007 the UFW filed objections to the election. The objections will be held in abeyance pending resolution of ulps mirroring the election objections. On October 5, 2007 the Regional Director dismissed three overlapping charges (07-CE-23-SAL, 07-CE-25-SAL and 07-CE-26-SAL). On October 18, 2007 the UFW filed a request for review of three of the four charges. On November 16, 2008 the General Counsel affirmed the Regional Director's dismissal of the three charges. On February 5, 2008 the Salinas Regional Director and Employer reached an informal settlement agreement resolving the allegations of the remaining charge, 07-CE-24-SAL. The UFW filed a request for review of the agreement. The General Counsel denied the request for review on March 10, 2008. The matter is now pending a ruling by the Executive Secretary on the union's election objections.

Lassen Dairy dba Meritage Dairy, 07-RC-4-VI

On September 4, 2007 UFCW International Union, Local 5 filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees of Lassen Dairy dba Meritage Dairy. The employer is a dairy located in Bakersfield with approximately 25 employees. An election was held on September 11, 2007 with the following results:

UFCW	17
No Union	15
Unresolved Challenged Ballots	<u>6</u>
Total	38

As the unresolved challenged ballots were outcome determinative, the Regional Director investigated the challenges and issued his report on challenged ballots on November 9, 2007. The Employer filed exceptions to that report on November 19, 2007. The Board issued its decision on challenged ballots on February 15, 2008. A hearing on the three (3) challenged ballots was held on March 18, 2008. On April 22, 2008 the Investigative Hearing Examiner (IHE) issued his decision in this matter. No exceptions were filed and the Executive Secretary issued his order making the IHE decision final on May 12, 2008. On May 13, 2008 the Regional Director opened and counted the three challenged ballots and issued an amended tally with the following results:

UFCW	17
No Union	18
Unresolved Challenged Ballots	<u>2</u>
Total	37

Since the two remaining challenged ballots are outcome determinative and are dependent on the processing of ulp charges involving the two affected workers, the Executive Secretary has requested that the investigation of charges pertaining to Juan Alberto Tostado and Jose Antonio Barbosa Tostado be expedited so that a final tally can be obtained. A ruling on the objections will follow as soon as a final tally has issued.

Mayflower Companies et al., 07-RC-7-VI

On December 7, 2007 UFCW International Union, Local 5 filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees of Mayflower Companies et al. The employer is a dairy located in Pixley with approximately 31 employees. The election was held on Friday, December 14, 2007 with the following tally:

UFCW	11
No Union	20
Unresolved Challenged Ballots	<u>1</u>
Total	32

The UFCW filed objections on December 12, 2007. The objections are being held in abeyance pending investigation of overlapping ULPs. On February 4, 2008 the employer filed a motion to dismiss the objections alleging the union had neglected to serve the employer's legal representative. The UFCW filed a reply to the motion on

February 12, 2008. On February 15, 2008 the acting ES denied the motion to dismiss. The request for review was filed February 28, 2008. On March 7, 2008 the Board denied the employer's request for review. The matter is now pending resolution of the overlapping ULPs. The Regional Director anticipates meeting on the overlapping ULPs next week with a resolution to follow soon.

L.E. Cooke Company, 08-RD-001-VIS

Agricultural employee Fabian Betanzos filed a decertification petition with the Visalia Regional Office seeking to decertify the incumbent representative, UFW, at L.E. Cooke Company. The employer is a bare tree nursery in Visalia with approximately 136 employees. An election was held on April 9, 2008 with the following results:

United Farm Workers	53
No Union	57
Unresolved Challenged Ballots	<u>12</u>
Total	122

The number of unresolved challenged ballots is sufficient to affect the outcome of the election. The Visalia Regional Director will investigate the challenges and issue a report to the Board. On April 21, 2008 the Executive Secretary received an objections petition from the UFW. The election objections will be screened as soon as the outcome determinative challenges are resolved.

Rocking S. Dairies, 07-UC-01-VI

UFCW Local 5 filed a unit clarification petition seeking to clarify the bargaining unit designated in its certification of July 23, 2007 to now include the employees of The Oaks Ranch. The union alleges that The Oaks Ranch is a single employer with Rocking S. Dairies. On May 19, 2008 the Regional Director set this matter for hearing on July 28, 2008.

COMPLAINT REPORT

COMPLAINTS ISSUED

No new complaints have issued.

**PREHEARING, HEARING OR SETTLEMENT CONFERENCES
SCHEDULED**

Wolf Farming Co. of CA, 06-CE-28-VI

Prehearing scheduled June 17, 2008

Hearing scheduled July 21, 2008

Rocking S. Dairies, 07-UC-01-VI
Prehearing scheduled June 23, 2008
Hearing scheduled July 28, 2008

The Hess Collection Winery, 99-CE-23-SAL
Prehearing July 29, 2008
Hearing August 26, 2008

J. Lohr Vineyards, Inc., 07-CE-1-SAL
Prehearing scheduled August 18, 2008
Hearing scheduled October 7, 2008

We have received a request for continuance of the prehearing and hearing dates. The motion is under consideration

Kirschenman Enterprises, 06-CE-78-VI
Prehearing scheduled September 18, 2008
Hearing scheduled October 20, 2008

HEARINGS HELD:

None.

CASES PENDING ALJ/IHE DECISION:

None.

ALJ/IHE DECISIONS ISSUED:

None.

CASES PENDING EXCEPTIONS OR REPLY:

None.

CASES PENDING BOARD DECISION:

Vincent B. Zaninovich & Sons, 06-CE-62-VI
Aukeman Farms, 06-CE-35-VI

CASES PENDING SETTLEMENT:

None.

CASES SETTLED OR RESOLVED:

Santa Rosa Berry Farms, 07-CE-22-VI
Taken off calendar May 20, 2008 as parties reached informal bilateral settlement agreement.

COMPLIANCE CASES CLOSED:

None.

CASES TRANSFERRED TO BOARD FOR DECISION:

BOARD DECISIONS:

REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION LAW:

None.

COURT LITIGATION:

Artesia Dairy (33 ALRB No. 6)

Petition for review filed January 25, 2008. ALRB filed certified record on January 7, 2008. Petitioner's opening brief was filed March 13, 2008. The Board's response brief was filed April 16, 2008. The Real Party in Interest filed their brief on April 17, 2008. The petitioner's reply brief was filed May 12, 2008. The matter is now pending court decision or setting of oral argument.

ADMINISTRATIVE MATTERS:

Bilingual Survey Exemption Request for 2007/08 - Chairman Almaraz met with General Counsel Lee regarding the exemption request. After lengthy discussion and consideration of the burden on the General Counsel's regional and headquarters staff, the Board instructed Executive Secretary Barbosa to request a withdrawal of the request for exemption. Board staff will assist with the survey.

Statewide IT Survey - The ALRB participated in a Statewide IT survey conducted by Teri Takai, Chief Information Officer for the State of California.

DPA Request for Information - ALRB has been informed that DPA and the Office of Information Security are partnering on a project to establish model policy for state agencies in regards to 1) computer logon banner, and 2) acceptable use policy and employee acknowledgment forms. DPA has requested copies of all applicable policies in these areas. The information is being gathered and will be sent over.

Assembly Labor Committee - Benjamin Ebbink of the Assembly Labor Committee requested an update on his budget-related questions. The ALRB response is being prepared and will be sent over on Friday, May 23, 2008.

6. Special Projects

(a) Information Technology Update/Case Tracking System: Member Shiroma discussed various features to improve the website and case tracking system that were identified by the committee on May 16. Member Shiroma will meet with Accounting Officer Davis and Program Services Officer Winston to discuss the

current maintenance agreement. The next committee meeting will be held on May 30 to discuss time tracking.

- (b) Financial Integrity and State Managers Accountability Act (FISMA): Member Rivera-Hernandez spoke with EDD Director Henning regarding obtaining sample policies from EDD.

7. Legislation

AB 2386 (Nunez) Agricultural employees: elections of labor representatives.

As originally introduced, this bill would have made technical, nonsubstantive changes to section 1156.3 of the ALRA, which governs the filing of election petitions. As amended on April 2, the prior language has been deleted and it now makes nonsubstantive changes to the AERF provisions in the ALRA and requires that the status of AERF be included in the annual report (in place of language that had required a single report in 2002). The bill passed the Labor & Employment Committee on April 10 and was re-referred to the Committee on Appropriations. The bill passed the Committee on Appropriations on April 24 and was read a second time on April 28.

8. Roundtable

Assistant General Counsel Blanco presented various options for reaching out to the farm worker community during harvest season.

Member Shiroma, Assistant General Counsel Blanco, and Analyst Massie attended the annual Government Technology Conference.

General Counsel Lee and Assistant General Counsel Blanco attended the California Women for Agriculture Legislative Reception.

Art Naldoza, Deputy Director of La Cooperativa Campesina, passed away from cancer May 1, 2008. Art is remembered as a policy expert and advocate for immigrants and the poor.

The public meeting adjourned at 12:25 p.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION.