

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

**Employment Development Department Auditorium
722 Capitol Mall
Sacramento CA 95814**

June 15, 2015

Time: 10:05 a.m.
Members Present: Chairman Gould, Members Shiroma and Rivera-Hernandez
Staff Present: Acting Executive Secretary Starkey; Board Counsel Heyck, Dixit and Inciardi; Blanco; ALJs Soble and Kocol; and Analyst Massie
Others Present: Chief of Administration Saldivar; General Counsel Attorney Gaitan
LWDA: LWDA Undersecretary Schoorl; April Kleine

OPEN SESSION

1. **Approval of Minutes:** Board approved 3-0 the minutes of April 24, 2015.
2. **Public Comment:** None.
3. **Chairman's Report:**
 - **Budget.** The Governor's proposed budget for Fiscal Year 2015-2016 proposes two limited-term administrative law judges for the Board and one limited-term attorney position for the Office of the Executive Secretary. It also calls for funding of the relocation of the El Centro Sub-Regional office to the Coachella Valley and a new Northern California sub-regional office, each staffed with one attorney, one field examiner, and one secretary under the general supervision of the General Counsel. Additionally, the plan provides one-time monies for the acquisition of cars for staff travel related to investigations.
 - **ALRB 40th Anniversary Reception.** As noted at past public meetings, the Agricultural Labor Relations Board this year is recognizing the 40th Anniversary of the Agricultural Labor Relations Act being signed into law by Governor Edmund G. Brown Jr. in 1975. A formal commemoration and celebration of this historic Act will take place on the evening of June 24, 2015, at the Leland Stanford Mansion in Sacramento. Legislators and government officials,

agricultural stakeholders, along with past and current ALRB employees will be in attendance to note this important occasion.

4. Executive Officer Report

ELECTION REPORT

There have been no new notices of intent to take access, notices of intent to organize or election petitions filed since the Board's last meeting on April 24, 2015. We have one unresolved election matter, Gerawan Farming, Inc. and the United Farm Workers of America.

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

None.

PENDING ELECTION MATTERS

Gerawan Farming, Inc., 2013-RD-003-VIS

On October 25, 2013, Sylvia Lopez (Petitioner) filed a petition to decertify the United Farm Workers of America (UFW) as the bargaining representative of the agricultural employees of Gerawan Farming, Inc. (Employer). An election was held on November 5, 2013, and the ballots were impounded. A hearing on the consolidated election objection and unfair labor practice amended consolidated complaint commenced on September 29, 2014, and ended on March 12, 2015. The post-hearing briefs were filed on May 22, 2015 and the matter is pending review and decision by the Administrative Law Judge.

COMPLAINT REPORT

Since the Board's last meeting on April 24, 2015, the General Counsel has issued seven (7) complaints, one (1) backpay specification, and settled one complaint prior to hearing.

COMPLAINTS ISSUED

KC Ag, LLC, 2014-CE-030-VIS

On April 9, 2015, the General Counsel issued a complaint in KC Ag, LLC, 2014-CE-030-VIS alleging that the employer allegedly fired six (6) workers because they concertedly requested an increase in the piece rate for picking grapes.

George Amaral Ranches, Inc., 2015-CE-013-SAL

On May 7, 2015, the General Counsel issued a complaint in George Amaral Ranches, Inc., 2015-CE-013-SAL alleging that the employer unilaterally implemented a health plan without notice or opportunity to bargain to the workers' collective bargaining representative, the UFW.

Sabor Farms, 2013-CE-047-VIS

On May 27, 2015, the General Counsel issued a complaint in Sabor Farms, 2013-CE-047-VIS alleging that the employer allegedly discriminatorily fired two employees in retaliation for complaining about working conditions, i.e., complaining to foreman about being assigned work in the front section of the harvesting machine since it was not their turn to do this work and they had performed this work the previous day.

Frank Pinheiro Dairy dba Dairy & Milanesio Farms, 2013-CE-013-VIS

On May 27, 2015, the General Counsel issued a complaint in Frank Pinheiro Dairy dba Dairy & Milanesio Farms, 2013-CE-013-VIS alleging that the employer allegedly terminated one employee for having concertedly complained about a foreman's mistreatment and also that foreman's refusal to allow the workers to take a lunch break despite their six (6) hours of continuous work.

George Amaral Ranches, Inc., 2013-CE-019-SAL

On May 27, 2015, the General Counsel issued a complaint in George Amaral Ranches, Inc., 2013-CE-019-SAL alleging that the employer laid off one employee in retaliation for union activity/protected concerted activity, failed to notify and bargain with UFW over Respondent's use of farm labor contractors to perform tasks customarily performed by direct hires, failed to engage in good faith bargaining over the effects of the use of farm labor contractor work crews instead of direct hires, failed to bargain over Respondent's sale and/or purchase of ranches used by Respondent's work crews.

Bud Antle, Inc. dba Bud of CA and Dole Fresh Vegetables, Inc., 2012-CE-056-SAL

On May 27, 2015, the General Counsel issued a complaint in Bud Antle, Inc. dba Bud Of CA and Dole Fresh Vegetables, Inc., 2012-CE-056-SAL alleging that Respondent failed to bargain over agricultural employees hired through labor contractors, failed to provide relevant information to the certified bargaining representative, failed to notify and bargain with Teamsters over Dole/Bud's use of farm labor contractors to perform tasks customarily performed by direct hires, and by discriminatorily diverting bargaining unit work to nonunion labor contractors or custom harvesters.

Associated Tagline, Inc. dba Ag Services, 2012-CE-006-SAL

On June 1, 2015, the General Counsel issued a complaint in Associated Tagline, Inc. dba Ag Services, 2012-CE-006-SAL alleging that the employer delayed bargaining, failed to meet with the certified representative in a timely fashion, engaged in surface bargaining and failed to provide the certified representative requested information necessary for bargaining. The Respondent also allegedly employed agricultural employees covered under the ALRB certification without notifying the Union or bargaining with the Union over their wages, hours or working conditions.

Sandhu Brothers Poultry and Farming, 2012-CE-010-VIS, 40 ALRB No. 12

On June 1, 2015, the General Counsel issued a backpay specification in Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, Case No. 2012-CE-010-VIS, 40 ALRB No. 12. The specification is for one worker (Elvia Hernandez Palacios) in the amount of \$41,778.38.

COMPLAINTS WITHDRAWN

None.

CASES SETTLED AT HEARING

None.

HEARINGS IN PROGRESS

None.

HEARINGS SCHEDULED

There are six (6) hearings currently scheduled: two in July, one August, one in September and two in October.

Santa Paula Berry Farms, LLC 2014-CE-062-SAL

Pre-hearing Conference: June 15, 2015 @ 1 PM

Hearing: July 6, 2105 (5 days)

KC AG, LLC, 2014-CE-030-VIS

Pre-hearing Conference: June 22, 2015 @ 1 PM

Hearing: July 6, 2105 (2 days)

Eclipse Berry Farms, LLC 2014-CE-042-SAL

Pre-hearing Conference: July 20, 2015 @ 1 PM

Hearing: August 10, 2015 (5 days)

Rincon Pacific, LLC, 2014-CE-024-SAL

Pre-hearing Conference: September 8, 2015 @ 1 PM

Hearing: September 28, 2015 and continuing

Bud Antle, Inc. dba Bud of CA, and Dole Fresh Vegetables, Inc., 2012-CE-056-SAL

Pre-hearing Conference: September 14, 2015

Hearing: October 1, 2015 (3 days)

T-Y Nursery, Inc., 2014-CE-021-SAL

Pre-hearing Conference: October 5, 2015

Hearing: October 26, 2015 (3 days)

HEARINGS HELD

None.

CASES PENDING TRANSCRIPTS, POST-HEARING BRIEFS OR ALJ/IHE DECISION

Gerawan Farming, Inc., 2013-RD-003-VIS

The post-hearing briefs were filed on May 22, 2015 and the matter is pending review and decision by the Administrative Law Judge.

ALJ/IHE DECISIONS ISSUED

Arnaudo Brothers, LP and Arnaudo Brothers, Inc., 2012-CE-030-VIS

The ALJ's decision issued April 29, 2015.

CASES PENDING EXCEPTIONS OR REPLY/REQUEST FOR REVIEW

Arnaudo Brothers, LP and Arnaudo Brothers, Inc., 2012-CE-030-VIS

The ALJ's decision issued April 29, 2015.

Exceptions were filed June 5, 2015.

Reply briefs due June 18, 2015

Ace Tomato Company, Inc., 93-CE-037-VI

Exceptions were filed May 28, 2015

Replies due June 25, 2015

CASES PENDING BOARD DECISION OR ACTION

Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, 2012-CE-010-VIS, 40 ALRB No. 12

On June 1, 2015, the Executive Secretary's office received a request from the General Counsel's office in Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, Case No. 2012-CE-010-VIS, 40 ALRB No. 12, for authorization to initiate enforcement proceedings in Superior Court pursuant to Section 1160.8 of the Act. According to the General Counsel, Respondent has failed to provide information necessary to effectuate compliance with the Board's nonmonetary remedies. On June 8, 2014, the Board issued an order to show cause why the Board should not authorize enforcement proceedings. The Respondent's response was submitted June 12, 2015.

CASES REFERRED TO COMPLIANCE

Perez Packing, Inc., 2012-CE-003-VIS, 39 ALRB No. 19

Released for compliance 04/30/15

Arnaudo Brothers, LP, and Arnaudo Brothers, Inc., 2013-CE-028-VIS, et al., 41 ALRB No. 4

Released for compliance 06/05/15

COMPLIANCE CASES CLOSED

Premiere Raspberries, LLC, dba Dutra Farms, 2012-CE-003-SAL, et al.

On May 21, 2015, the Salinas Regional Director issued a closing letter in the above-referenced case. Neither party sought review of the case closure decision within the time permitted so this matter is now administratively closed.

BOARD DECISIONS/ADMINISTRATIVE ORDERS

The Board has issued one board decision and three (3) administrative orders since its last Board meeting.

BOARD DECISION

Arnaudo Brothers, 2012-CE-028-VIS

On April 28, 2015, the Board issued its decision and order in this matter.
41 ALRB No. 4

ADMINISTRATIVE ORDERS

Gerawan Farming, Inc., 2015-CE-011-VIS, 2015-CE-012-VIS

On May 14, 2015, the Board issued an order clarifying that the Board ruled on General Counsel's request to file a petition for a temporary restraining order via a letter to the General Counsel dated May 12, 2015.

Admin. Order 2015-06

D'Arrigo Bros. of California, 2014-CE-005-SAL

On May 28, 2015, the Board granted General Counsel's request to seek court order enforcing subpoenas ad testificandum and subpoena duces tecum.

Admin. Order 2015-07

Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, Case No. 2012-CE-010-VIS, 40 ALRB No. 12

On June 8, 2015, the Board issued Administrative Order No. 2015-08, ordering Sandhu to show cause why the Board should not grant the General Counsel authority to initiate enforcement proceedings in Superior Court pursuant to section 1160.8 of the ALRA. The response is due by 5 p.m. on Friday, June 12, 2015.

Admin. Order No. 2015-08

REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION LAW

None.

ALRB BOARD LITIGATION

Federal Appeals Court

► ***Lopez v. Shiroma, et al.*, United States Court of Appeals, Ninth Circuit, Case No. 14-16640, United States District Court, E.D. Cal., Case No. 1:14-CV-00236-LJO-GSA**

Summary: Board's appeal from district court ruling on ALRB's motion to dismiss that denied ALRB's immunity defenses in a 42 United States Code section 1983 action for alleged civil rights violations arising out of representation election.

Status and Last Action Date: The matter is fully briefed.

Federal District Court

▶ *Lopez v. Shiroma, et al.*, United States District Court, E.D. Cal., Case No. 1:14-CV-00236-LJO-GSA

On Appeal: *Lopez v. Shiroma, et al.*, United States Court of Appeals, Ninth Circuit, Case No. 14-16640

Summary: 42 United States Code section 1983 action for alleged civil rights violations arising out of representation election.

Status and Last Action Date: By order dated September 23, 2014, the court granted the ALRB's motion to enforce stay of proceedings pending the appeal and denied plaintiff's motion to appoint a special expert master.

California Appellate Courts

Fourth District Court of Appeal

▶ *California Artichoke and Vegetable Growers Corp., dba Ocean Mist Farms.*, Fourth District Court of Appeal, Case No. E063489 (41 ALRB No. 2)

Summary: Petition for writ of review of Board's decision finding that employer unlawfully terminated and discriminated against employees based on their union activity and refused to rehire workers based on their union activity.

Status and Last Action Date: Petitioner's opening brief is due June 22, 2015.

Fifth District Court of Appeal

▶ *Ace Tomato Company, Inc.*, Fifth District Court of Appeal, Case No. F065589 (38 ALRB No. 6)

Summary: Petitioner Employer seeks review and stay of Board's decision affirming the mediator's report fixing the terms of a collective bargaining agreement between the employer and the union.

Status and Last Action Date: On January 7, 2015, the appellate court requested a status update, which the Office of the Executive Secretary provided to the court on January 20, 2015. The Board restated its request for the court to take the matter out of abeyance. As of January 20, 2015, the matter has been pending with the court.

▶ *San Joaquin Tomato Growers, Inc. v. ALRB*, Fifth District Court of Appeal, Case No. F068406 (39 ALRB No. 15)

Summary: Writ of Review of Board's decision and order in 39 ALRB No. 15 concerning the makewhole remedy.

Status and Last Action Date: On May 14, 2015, in an unpublished decision, the court upheld the Board's decision. No further appeals were taken. Remittitur issued on June 14, 2015. The matter is concluded.

▶ ***Gerawan Farming, Inc. v. ALRB, Fifth District Court of Appeal, Case No. F068526 (39 ALRB No. 17)***

Summary: Various statutory and constitutional challenges to Board's Decision in 39 ALRB No. 17 where the Board approved an MMC contract between the Employer and the Union.

Status and Last Action Date: On May 14, 2015, the court issued a published decision reversing the Board and finding the MMC unconstitutional and an improper delegation of statutory authority. The matter is pending filing of a petition for review in the California Supreme Court.

▶ ***Gerawan Farming, Inc. v. ALRB, Fifth District Court of Appeal, Case No. F068676, Fresno Superior Court Case No. 13CECG01408***

Summary: Appeal from Fresno County Superior Court ruling denying petition for writ of mandate challenging the MMC process for lack of jurisdiction.

Status and Last Action Date: See F068526 above.

▶ ***Perez Packing, Inc., Fifth District Court of Appeal, Case No. F068697 (39 ALRB No. 19)***

Summary: Writ of Review of Board's decision and order in 39 ALRB No. 19.

Status and Last Action Date: On April 22, 2015, the matter was re-scheduled to May 20, 2015. On April 28, 2015, the Employer filed a motion to dismiss, which was granted, and the case was dismissed on April 30, 2015. Remittitur issued that same date. The matter is concluded.

▶ ***Tri-Fanucchi Farms, Fifth District Court of Appeal, Case No. F069419 (40 ALRB No. 4)***

Summary: Writ of Review of Board's decision and order in 40 ALRB No. 4.

Status and Last Action Date: On May 14, 2015, in a published decision, the court upheld the Board's order finding that the Employer unlawfully refused to bargain and rejecting the Employer's "abandonment" defense, but set aside the Board's ruling as to the remedy, finding no liability for the Employer, reasoning that because no appellate decision had ruled on the defense raised, the Employer's assertion of the defense in this case promoted the Act. The matter is pending filing of a petition for review in the California Supreme Court.

▶ ***Gerawan Farming, Inc. v. ALRB, et al., Fifth District Court of Appeal, Case No. F069896, Fresno County Superior Court, Case No. 13-CECG-03374***

Summary: Gerawan challenges the Board's August 21, 2013 order that MMC proceedings are closed to the public. Gerawan brings this direct appeal from the superior court order granting the Board's demurrer to Gerawan's complaint for declaratory and injunctive relief.

Status and Last Action Date: Amicus brief on behalf of a press coalition, The Reporters Committee for Freedom of the Press, The First Amendment Coalition, and the California Newspaper Publishers' Association, was allowed to be filed on June 5, 2015. The case is pending with the court for decision.

▶ ***P & M Vanderpoel Dairy v. ALRB, et al., Fifth District Court of Appeal, Case No. F070149 (40 ALRB No. 8)***

Summary: Petition for writ of review of Board's decision finding employer wrongfully filed dairy workers for protected concerted activity (requesting pay raise).

Status and Last Action Date: The matter is fully briefed as of March 3, 2015, and pending court decision.

▶ ***Lupe Garcia v. California Agricultural Labor Rel. Bd., et al., Fifth District Court of Appeal, Case No. F070287, Fresno County Superior Court, Case No. 13-CECG-03374***

Summary: Appeal of Denial of Petition for Writ of Mandate challenging the Board's April 16, 2013 order in 2013-MMC-003 (39 ALRB No. 5) (constitutionality of MMC) (Gerawan employees challenge).

Status and Last Action Date: Appellant's opening brief was filed on March 16, 2015, by stipulated extension. The Board's brief is due June 19, 2015, by stipulated extension.

▶ ***Arnaudo Brothers, LP, and Arnaudo Brothers, Inc. ("Arnaudo") v. ALRB, et al., Fifth District Court of Appeal, Case No. F071598 (41 ALRB No. 3, 39 ALRB No. 7, et al.)***

Summary: Petition for writ of review of Board's decision ordering mediator's findings after mandatory mediation and conciliation.

Status and Last Action Date: The motion is pending with the court for decision.

Sixth District Court of Appeal

- ▶ ***United Farm Workers (Corralitos Farms, LLC), Sixth District Court of Appeal, Case No. H041113 (40 ALRB No. 6)***

Summary: Petition for writ of review of Board's decision finding union unlawfully picketed for representative status.

Status and Last Action Date: The UFW's reply brief was filed on May 6, 2015. The Case is pending decision by the court.

- ▶ ***Kawahara Nurseries, Inc., Sixth District Court of Appeal, Case No. H041686 (40 ALRB No. 11)***

Summary: Petition for writ of review of Board's decision finding that employer unlawfully laid off employees based on their union activity and refused to rehire workers based on their union activity and for having given testimony in an ALRB proceeding.

Status and Last Action Date: The Employer's reply brief was filed May 18, 2015, by stipulated extension. The matter is pending decision by the court.

California Superior Courts

- ▶ ***Francisco Acon v. ALRB, Sacramento County Superior Court, Case No. 34-2014-00168939***

Summary: Francisco Acon, a current ALRB employee with the Office of the General Counsel, filed a Complaint for Discrimination and Harassment arising out of employment.

Status and Last Action Date: Plaintiff's counsel voluntarily filed an amended complaint on December 16, 2014. Defendants' answer was filed on January 15, 2015. Discovery is ongoing.

- ▶ ***Gerawan Farming, Inc. v. ALRB, [Public Records Act] Sacramento County Superior Court, Case No. 34-2015-80002100***

Summary: Litigation demand (writ of mandamus, complaint for declaratory and injunctive relief) for documents communicated between the Board and the General Counsel on or about May 12, 2015, in the context of the General Counsel's seeking Board authority to request injunctive relief concerning unfair labor practices alleged against Gerawan Farming, Inc.

Status and Last Action Date: The parties, through counsel, are setting a briefing schedule and will request a court date on or after July 20, 2015.

▶ ***Gerawan Farming, Inc. v. California Agricultural Labor Rel. Bd., et al., Fresno Superior Court Case No. 13-CECG-01408, On Appeal: Fifth District Court of Appeal, Case No. F068676,***

Summary: Action challenges the Board's April 15, 2013 order for mandatory mediation and conciliation.

Status and Last Action Date: The superior court denied the writ on September 26, 2013. Petitioner appealed.

▶ ***Lupe Garcia v. California Agricultural Labor Rel. Bd., et al., Fresno County Superior Court, Case No. 13-CECG-01557 (39 ALRB No. 5) (2013-MMC-003)***

Summary: Petition for Writ of Mandate challenging the Board's April 16, 2013 order in 2013-MMC-003 (39 ALRB No. 5) (constitutionality of MMC) (Gerawan employees challenge).

Status and Last Action Date: Board's Counsel filed papers to stay all proceedings, including discovery, which the court granted on September 24, 2014, and dates for pretrial conferences and trial on November 2014 have been vacated.

▶ ***Gerawan Farming, Inc. v. ALRB, et al., On Appeal: Fifth District Court of Appeal, Case No. F069896, Fresno County Superior Court Case No. 13-CECG-03374***

Summary: Writ of mandate (First Amendment challenge to MMC; public participation issue).

Status and Last Action Date: On May 15, 2014, the court granted the Board's demurrer to Gerawan's lawsuit, without leave to amend, for lack of jurisdiction and immunity from suit. By minute order of July 7, 2014, the court affirmed the dismissal of the motion to intervene, which was entered as a judgment on July 25, 2014. On July 16, 2014, Gerawan filed its notice on appeal. Note: On September 19, 2014, Garcia filed a separate appeal—*Lupe Garcia v. California Agricultural Labor Rel. Bd., et al.*, Fifth District Court of Appeal, Case No. F070287. (See above.)

▶ ***Gerawan Farming, Inc. v. ALRB [TRO], Fresno County Superior Court Case No. 14-CECG-00987***

Summary: Application for Temporary Restraining Order in support of unfair labor practices alleging unlawful termination of an agricultural employee.

Status and Last Action Date: The matter is pending with the court for ruling.

5. GENERAL COUNSEL'S REPORT:

No report at this time.

6. CHIEF OF ADMINISTRATION REPORT

- a. Approval of Revised Policy concerning Bi-Lingual Services Dymally-Alatorre Bilingual Services Act (AB 2253) – Effective July 1, 2015, agencies are required to comply with the new requirements of the Dymally-Alatorre Bilingual Services Act of having language access complaint forms and processes available on their homepage in the languages that met the 5 percent threshold during the 2014 language survey. Prior to the meeting, the Board received the proposed complaint form and policy. The Board approved the updated policy language and complaint form by a vote of 3-0.
- b. The SPB Compliance Review Corrective Action Plan Response, Annual Workforce Analysis, and California Whistleblower Protection Act Exercises have been completed.
- c. Personnel—See Item 9 below.
- d. Regional Offices—Member Rivera-Hernandez will be traveling with Information Systems Analyst Payne to Southern California to look at proposed office sites in the Coachella Valley. Chairman Gould thanked Member Rivera-Hernandez for taking the lead on the project.

7. REGULATIONS

- a. Proposed rulemaking for electronic filing of documents – The Board is not able to move forward on this matter at this meeting.
- b. Proposed rulemaking to amend Board regulations to facilitate meeting SB 126 timelines (Cal. Code Regs., tit. 8, Section 20335) – Prior to this meeting, the Board members were provided with the proposed text and the other parts of the rulemaking package amending section 20335(c) aimed at facilitating meeting Senate Bill 126 (SB 126) election processing timelines. Chairman Gould requested the Board approve the package for submittal to the Labor and Workforce Development Agency (LWDA). In accordance with protocols, the LWDA would then be requested to review and sign the package attesting that the ALRB understands the impacts of the proposed rulemaking, for submittal to the Office of Administrative Law (OAL) to start the public comment process. Upon approval from the OAL, the regulation package will be released for formal public comment, a public hearing before the Board can be requested, and after deliberation, the Board will vote on the regulations. Chairman Gould reiterated that the regulations are needed so that the Board can move ahead with processing election objections that may overlap with unfair labor practice violations (ULPs), and to do so expeditiously. The Board has been consolidating election objections and ULPs for

hearings which has consequently extended the timeframes beyond those specified in SB 126.

After a staff presentation of the proposed regulatory package and after further discussion, the Board voted 2-1 (Member Rivera-Hernandez, dissenting) to submit to the LWDA the proposed regulation package for authorization to submit to the OAL to begin the public regulatory process.

Member Rivera-Hernandez stated that although she knows her colleagues are sincere in their effort and would support any effort that would expedite the processing of election cases she could not support the regulations. Noting no changes in the proposed language from when it was first presented at the Board's April 24, 2015 meeting, she re-stated her previously raised concerns, namely that the Board currently has the authority to expedite election matters and the proposed regulations would limit the Board's authority and freedom to respond to circumstances presented by particular cases. Member Rivera-Hernandez also argued that the proposed amendment, if adopted, would have significant fiscal implications relating to the processing of cases.

The Board majority disagreed with these interpretations and arguments. Chairman Gould argued that from his perspective and experience at the NLRB, the language proposed does not limit the Board's authority or freedom to respond but rather makes it clear that the Board will act in a timely manner, promoting a system that will induce the General Counsel to expedite the processing of such cases so as to comport with the parameters of SB 126. In response to concerns regarding fiscal implications, staff reminded the Board that the General Counsel has the resources to prioritize particular cases - an illustration of this exists in the form of expeditious investigations when pursuing injunctive relief. Staff noted that resources for the General Counsel have been augmented and the General Counsel can prioritize the workload. Further, there will be no fiscal impact on either the Board or General Counsel side, and no fiscal impacts are anticipated on the stakeholders. The Chairman noted at the earlier referenced meeting that there will be savings for the parties because of reductions in extended litigation and the consequent costs associated with delay.

c. Proposed rulemaking for education of agricultural workers — The Chairman described that it is extremely important for those affected by statute to have knowledge of the statute. He said that while this may sound uncontroversial, there has been litigation under the NLRA about the ability of that board to post informational notices. This type of provision is contained in virtually every employment statute, but there is no statutory provision under the NLRA. What has generated the Chairman's interests is the *San Diego Nursery* case which instructed that the Board could have access to company property. The Court of Appeal said in that case the proper way to approach this is through rulemaking. The Chairman expressed concern that those undocumented employees, especially those who do not

speaking Spanish, need assistance. Most cases the Board is seeing do not involve the union. The Board is seeing spontaneous actions by employees protesting activity, and not represented by a union, wanting to act in a concerted fashion to engage in protected activity. The ALRA is a statute which protects employees in acting in a concerted way. The Chairman hopes to convene a labor-management committee. The committee will consider practical and legal implications and hold hearings throughout the state to hear all stakeholders to consider facts and views of affected parties. The Board is at a preliminary stage.

8. LEGISLATION –

- **AB 266 (Bonta, Cooley, Jones-Sawyer) (Medical Marijuana; definition of agricultural employer)**
 - Introduced February 10, 2015
 - As amended June 2, 2015, this bill would enact the Medical Cannabis Regulation and Control Act (Gov. Code, § 19301 et seq.), a comprehensive regulatory scheme for the control and regulation of medical marijuana.
 - As concerns the ALRB, the bill no longer amends Labor Code section 1155.7 to define “agricultural employer” to include a licensed cultivation site or a licensed dispensing facility, as defined; however, this bill would include licensed cultivation sites in the definition of “agricultural employer.”
 - Status:
 - June 4, 2015, passed from Assembly to Senate, pending committee assignment.
- **AB 561 (Campos) (Authority for compliance with Board’s remedial monetary awards; time to process compliance; employer bonds on appeal)**
 - Introduced February 24, 2015
 - The bill adds Labor Code section 1149.3 to require a final Board order for compliance within one year of any compliance decision.
 - The bill adds Labor Code section 1164.8 to require an employer who seeks appellate review of any Board order to post a bond for the

entire economic value of the Board's order, as determined by the Board.

- April 8, 2015, heard in Assembly Labor & Employment Committee: The author removed language that would amend Labor Code section 1149 to establish primary authority in the General Counsel for calculation and prosecution of the Board's remedial monetary awards, subject to Board review for negligence or delay; other proposed amendments, described above, remain. Passed to Appropriations on 5-2 vote (Noes: Patterson, Harper).
- Status:
 - May 28, 2015, passed out of Assembly Appropriations (12-5)
 - June 2, 2015, passed Assembly to Senate; pending assignment.
- **AB 1389 (Patterson) (Co-authors, Grove, Chavez) (Mandatory Mediation and Conciliation)**
 - Introduced February 27, 2015
 - On May 4, 2015, bill is amended: 1) makes it an unfair labor practice for a union to "abandon or fail to represent" the bargaining unit for a period of three years or more and requires the Board to order decertification; 2) defines unit members as "parties" to MMC process and permits attendance at MMC proceedings; 3) allows the Board's MMC order to be effective only after ratification by unit members.
 - Status:
 - After hearing on May 6, 2015, in Assembly Labor & Employment Committee, the bill, as amended, failed to pass (2 ayes, 5 noes). Granted reconsideration. No hearing set.

9. PERSONNEL –April 24, 2014 to June 15, 2015.

Appointments:

Jillian Burgos; Staff Services Analyst; Office of the General Counsel; 05/28/2015

Separations:

None to report.

Current Vacancies:

Attorney; Office of the General Counsel, Sacramento HQ Office
Staff Services Analyst; Salinas Regional Office

Position Reclassifications/Transfers:

Vacant Office Technician (General), Salinas Regional Office, reclassified to Staff Service Analyst effective 05/15/2015

Current Recruitment/Job Opportunity Bulletins:

Law Student Intern (Volunteer); Office of the Executive Secretary
Hearing Officer II (2-Yr Limited Term BCP Position); Office of the Executive Secretary
Attorney IV (2-Yr Limited Term BCP Position); Office of the Board
Staff Services Analyst (General); Salinas Regional Office

Future Personnel Activity:

June 2015:

- Alegria de la Cruz, Regional Director Salinas Regional Office, is voluntarily separating to pursue other career opportunities. Anticipated separation date: June 19, 2015
- Abdel Nassar, Attorney Oxnard Sub-Regional Office, is transferring to another State department. Anticipated separation date: June 19, 2015

In Mid-June, 2015 three employees will be transferring internally to other regional or sub-regional offices:

- Jorge Gaitan, Attorney, Office of the General Counsel, is transferring to the El Centro Regional Office, effective June 15, 2015.
- Susana Naranjo, Attorney, Visalia Regional Office, is transferring to the Salinas Regional Office, effective June 15, 2015.
- John Cohen, Attorney, Visalia Regional Office, is transferring to Office of the General Counsel, Sacramento HQ Office, effective June 16, 2015.
- Theresa Bichsel, Attorney, Visalia Regional Office is transferring to the Oxnard Sub-Regional Office, effective June 22, 2015.

July 2015:

ALRB Personnel anticipates 13 new positions to be awarded in the finalized version of the Governor's 2015-2016 Budget. ALRB Personnel is currently recruiting for two of these anticipated positions (Limited Term Hearing Officer II and Limited Term Attorney IV). All positions awarded will be administratively established effective July 1, 2015, once confirmed by the Department of Finance.

Chairman Gould welcomed former NLRB ALJ William Kocol who is replacing recently retired ALRB Judge Douglas Gallop.

10. ANNOUNCEMENTS

None.

The public meeting adjourned at 11:16 a.m.