

**AGRICULTURAL LABOR RELATIONS BOARD****OFFICE OF THE EXECUTIVE SECRETARY**

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**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD  
PUBLIC MEETING MINUTES  
TUESDAY, DECEMBER 8, 2020  
10:00 A.M.**

There was no physical meeting location. Attendance was by remote meeting only (meeting number 964 0935 4893), via the attendee's choice of either Zoom video-conference or teleconference.

**Time:** 10:00 a.m.

**Board Members:** Chair Victoria Hassid  
Members Barry Broad, Cinthia Flores, Isadore Hall,  
and Ralph Lightstone

**ALRB Staff:** General Counsel Julia Montgomery  
Executive Secretary Santiago Avila-Gomez  
Division of Administrative Services Chief Brian Dougherty  
Chief Administrative Law Judge Mark Soble  
Chief Board Counsel Todd Ratshin  
Board Counsels Itir Yakar, Laura Heyck, and Scott Inciardi  
Assistant to the General Counsel Aqsa Ahmad  
Associate Governmental Program Analyst for General Counsel  
Audrey Hsia  
Executive Assistant to the Board Chair Ed Hass  
Outreach Program Manager and Communications  
Director Daniela Ramirez  
General Counsel Attorney Jessica Arciniega (Oxnard)

**Interpreter:** Aimee Benavides

*These meeting minutes include Appendices, which provide additional information about topics that were addressed during this ALRB Public Board Meeting. Each Appendix is referenced at the appropriate place within these Minutes.*

## **OPEN SESSION**

1. Call to Order, by Board Chair Victoria Hassid.
  - Roll-call of Board Members; all Board Members were present.
  - No public comments were received about this agenda item.
2. Approval of Minutes of October 13, 2020 Public Board Meeting and Regional Directors Meeting.
  - Motion to Approve by Board Member Broad, seconded by Board Member Hall. October 13, 2020 Public Board Meeting minutes approved.
  - Motion to Approve by Board Member Flores, seconded by Board Member Hall. October 13, 2020 Regional Directors Meeting minutes approved.
  - No public comments were received about this agenda item.
3. Chair's Report by Board Chair Victoria Hassid.
  - Board openings for AGPA and Legal Secretary posted on ALRB web site.
  - Acknowledgement of ALRB staff dedication.
  - No public comments were received about this agenda item.
4. Executive Officer's Report on Elections, Unfair Labor Practice Complaints, and Hearings

Santiago Avila-Gomez, Executive Secretary provided updates since the October 13 Public Board Meeting.

- See Appendix A.
  - No public comments were received about this report.
5. Litigation Report

Todd Ratshin, Chief Board Counsel provided updates since the October 13 Public Board Meeting.

    - See Appendix B.
    - No public comments were received about this report.
  6. General Counsel's Report Julia Montgomery, General Counsel (GC) provided updates since the October 13 Public Board Meeting.
    - Two positions open: Attorney III anywhere statewide to support entire GC program and Posted on ALRB web site attorney for Visalia region.
    - Settlement, Yergat Packing Company, Inc. GC filed for injunctive relief. Hearing was not scheduled due to Covid-19. Settlement included full back pay, readings, postings, mailings, and supervisor training.
    - Informal settlement, Ford Spraying, Inc. Settlement included full back pay, readings, postings, mailings, and supervisor training.

- GC is coordinating outreach with other agencies, including Labor and Workforce Development Agency (LWDA) and Employment Development Department (EDD).
  - Outreach via radio and social media.
  - Up-tick in calls received on GC statewide 800 line.
  - Introduced Daniela Ramirez, ALRB outreach program manager and communications director. Daniela spoke briefly about her background and role at the ALRB.
  - New outreach employee hired for Visalia.
  - Will have new outreach employee in Salinas.
7. Division of Administrative Services Report  
Presented by Brian Dougherty, Chief of Administration.
- Budget Report (see Appendix C).
  - Formal release of new budget will be on January 10, 2021.
  - No public comments were received about this report.
8. Regulations Report  
Presented by regulations subcommittee member Ralph Lightstone, Board Member.
- No suggestions received from the public to date in response to announcements at prior meetings soliciting input from stakeholders.
  - A public workshop to be conducted likely by videoconference will be scheduled at a future date to solicit suggestions for regulatory proposals.
9. Legislation Report
- No legislation updates to report.
  - No public comments were received about this agenda item.
10. Personnel
- The Board has no personnel items to report.
  - No public comments were received about this agenda item.
11. Public Comment
- No public comments were received about the business portion of this meeting.

12. Announcements

- Board Chair Victoria Hassid shared that the meeting schedule for 2021 will be posted on the ALRB web site by the end of December.
- No public comments were received about these announcements.

13. Adjourn Meeting

- Meeting adjourned at 10:38 a.m.

**APPENDIX A:**  
**EXECUTIVE SECRETARY'S REPORT**

**AGRICULTURAL LABOR RELATIONS BOARD**  
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**ALRB PUBLIC MEETING**  
**EXECUTIVE OFFICER'S REPORT**  
**ELECTIONS, UNFAIR LABOR PRACTICE COMPLAINTS, AND HEARINGS**

**DATE:** December 8, 2020  
**TO:** Agricultural Labor Relations Board  
**FROM:** Santiago Avila-Gomez, Executive Secretary

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Since the Board's last public meeting on October 13, 2020, the following has occurred.

**ELECTION ACTIVITY**

No notices of intent to take access (NA), notices of intent to organize (NO), or petitions for certification or decertification have been filed.

**COMPLAINTS**

1. *Pacific Reserve Nursery, LLC*, Case No. 2019-CE-009-SAL, filed November 25, 2020 (Cannabis; Monterey County, California)
2. *Dominguez Farms and Mann Packing Co., Inc.*, Case No. 2017-CE-033-SAL et al., filed November 25, 2020 (Broccolini; Monterey County, California)
3. *Santa Rosa Berry Farms, LLC*, Case No. 2019-CE-050-SAL, filed November 12, 2020 (Strawberry; Ventura County, California)
4. *C & G Farms, Inc.*, Case No. 2019-CE-033-SAL, filed October 26, 2020 (Cabbage, Broccoli, and Cauliflower; Monterey County, California)

## **POST-COMPLAINT SETTLEMENTS**

1. *Yergat Packing, Inc.*, Case Nos. 2019-CE-015-VIS and 2020-CE-017-VIS.  
The parties entered into an informal bilateral settlement agreement  
(Notification from General Counsel received on October 15, 2020)

## **HEARINGS**

There have been no in-person or virtual hearings held.

## **ALJ and BOARD DECISIONS**

No Administrative Law Judge or Board decisions have issued.

## **BOARD ADMINISTRATIVE ORDERS**

1. *Premiere Raspberries, LLC* (2020) ALRB Admin. Order No. 2020-20  
(Order Directing Regional Director to Clarify Statement in Support of  
Formal Bilateral Settlement Agreement)
2. *United Farm Workers of America* (2020) ALRB Admin. Order 2020-19  
(Order Granting the UFW's Application for Special Permission to  
Appeal Administrative Law Judge's Order; Order Affirming  
Administrative Law Judge's Order Denying Petition to Revoke)
3. *Premiere Raspberries, LLC* (2020) ALRB Admin. Order No. 2020-18-P  
(Order Denying Regional Director's Request for an Order Sealing  
Statement in Support of Formal Bilateral Settlement Agreement)
4. *John DeGroot and Son Dairy* (2020) ALRB Admin. Order 2020-17  
(Order Remanding Decertification Petition to Regional Director)

## **CASES PENDING BOARD DECISION OR ACTION**

1. *Ocean Mist Farms*, Case No. 2017-CE-006-VIS (ALJ Decision transferred to Board on August 25, 2020; Completion of briefing on October 14, 2020 [Spinach; Riverside County, California])
2. *Premiere Raspberries, LLC*, 2018-CE-004-SAL (Regional Director's Statement in Support of the Formal Bilateral Settlement Agreement filed November 13, 2020; Clarification filed on December 3, 2020 [Raspberries; Santa Cruz County, California]).



**APPENDIX B:**  
**LITIGATION REPORT**

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## **ALRB PUBLIC MEETING LITIGATION REPORT**

DATE: December 8, 2020  
TO: Agricultural Labor Relations Board  
FROM: Todd M. Ratshin, Chief Board Counsel

This report discusses updates and developments that have occurred in litigation matters involving the Board since its October 13, 2020 meeting.

### **Petitions for Writ of Review of Unfair Labor Practice Decisions**

#### California Supreme Court

► ***Gerawan Farming, Inc. v. ALRB*, California Supreme Court, [Case No. S264099](#)**

**Summary:** Petition for review of the appellate court's opinion affirming the Board's decision in 44 ALRB No. 1, in which the Board found that Gerawan committed unfair labor practices by engaging in surface bargaining with the United Farm Workers of America and by insisting on the exclusion of workers employed by farm labor contractors from the terms of a collective bargaining agreement. (*Gerawan Farming, Inc. v. ALRB* (2020) 52 Cal.App.5th 141.)

**Status:** The Court issued an order on October 14 extending the time to grant or deny review to November 20. On October 28, the Court issued an order denying the petition. The appellate court issued its remittitur to the Board on October 30. This litigation now is final.

#### California Appellate Courts

► ***Smith Packing, Inc. v. ALRB*, Second District Court of Appeal, [Case No. B308102](#)**

**Summary:** Petition for writ of review of the Board's decision in 46 ALRB No. 3, in which the Board found the employer unlawfully terminated a group of employees for engaging in concerted protected activity.

**Status:** Smith Packing filed its petition for writ of review on October 14. The Board filed the certified record on October 26. On November 25, Smith Packing filed an application for an extension of time to file its opening brief from November 30, 2020, to January 14,

2021, which the court granted on December 2. The Board's respondent's brief will be due 35 days after Smith Packing's opening brief is filed.

► ***Wonderful Orchards, LLC v. ALRB*, Fifth District Court of Appeal, [Case No. F081172](#)**

**Summary:** Petition for writ of review of the Board's decision in 46 ALRB No. 2, in which the Board found the employer unlawfully terminated a group of employees for engaging in protected concerted activity.

**Status:** Wonderful filed its reply brief on November 16. On December 1, the court issued a writ of review. The matter now is pending scheduling of oral argument.

► ***United Farm Workers of America v. ALRB*, Fifth District Court of Appeal, [Case No. F080469](#)**

**Summary:** Petition for writ of review of the Board's decisions in 45 ALRB Nos. 8 and 4, in which the Board found the United Farm Workers of America unlawfully threatened to picket Gerawan Farming, Inc. if it did not recognize and bargain with the union, which had been decertified as the employees' bargaining representative in the Board's decision in 44 ALRB No. 10.

**Status:** The UFW filed its reply to the Board's and Gerawan's opposition briefs on November 4. Also on November 4, the court issued an order granting the Board's motion to file the supplemental brief and providing the UFW 20 days to respond. On November 24, Gerawan filed a motion for leave to respond to the ALRB's supplemental brief and an accompanying response. The court issued an order on November 25 deferring ruling on Gerawan's motion pending consideration of the merits of the UFW's petition. On December 1, the court issued a writ of review. The case now is pending scheduling of oral argument.

## **Other Board Litigation**

### **United States Supreme Court**

► ***Cedar Point Nursery and Fowler Packing Co., Inc. v. Hassid, et al.*, U.S. Supreme Court, [Case No. 20-107](#)**

**Summary:** The growers seek review of the Ninth Circuit's opinion rejecting their argument the Board's access regulation (Cal. Code Regs., tit. 8, § 20900) violates the Fifth Amendment's Takings Clause. (*Cedar Point Nursery v. Shiroma* (9th Cir. 2019) 923 F.3d 524; see also *Cedar Point Nursery v. Shiroma* (9th Cir. 2020) 956 F.3d 1152 [order denying petition for rehearing en banc].)

**Status:** The growers filed a reply to the Board's opposition brief on October 15. On October 21 the case was distributed for conference on November 6. The matter was re-listed for the November 13 conference. On November 13, the Court issued an order granting certiorari. On November 24, petitioners filed a motion to dispense with the requirement of a joint appendix, which was granted by the Court on December 7. On December 2, petitioners filed a blanket consent to the filing of amicus briefs. Petitioners' opening brief on the merits is due no later than December 28, and respondents' brief on the merits is due

30 days after the opening brief is filed. Amicus briefs are due 7 days after the brief for the party whom the amicus supports. The matter is tentatively scheduled for oral argument on the Court's February argument calendar (Feb. 22-24 or Mar. 1-3, 2021).

**APPENDIX C:**  
**ADMINISTRATIVE SERVICES REPORT**

**BUDGET HIGHLIGHTS**

# The Agricultural Labor Relations Board

## Budget Highlights 2020-2021

### ALRB Budget by Program<sup>1</sup>

Programs	Board	General Counsel	Administration	Distributed Administration	Total
Total by Program	\$4,136,000	\$7,647,000	\$934,000	(\$934,000)	<b>\$11,783,000</b>

### ALRB Budget by Program and Category<sup>2</sup>

Category	Board	General Counsel	Administration	Distributed Administration	ALRB Total
Salaries and Wages <sup>3</sup>	\$2,256,000	\$3,524,000	\$630,000	-\$630,000	<b>\$5,780,000</b>
Benefits <sup>3</sup>	\$711,000	\$1,485,000	\$205,000	-\$205,000	<b>\$2,196,000</b>
Operating Expenses and Equipment <sup>4</sup>	\$1,169,000	\$2,638,000	\$99,000	-\$99,000	<b>\$3,807,000</b>
Goods	\$15,000	\$10,000			<b>\$25,000</b>
Printing	\$9,000	\$15,000			<b>\$24,000</b>
Communications	\$22,000	\$10,000			<b>\$32,000</b>
Postage	\$4,000	\$20,000			<b>\$24,000</b>
Insurance		\$5,000			<b>\$5,000</b>
Travel - In State	\$10,000	\$20,000	\$4,000	-\$4,000	<b>\$30,000</b>
Training and Tuition	\$15,000	\$15,000			<b>\$30,000</b>
Rents and Leases	\$310,000	\$430,000			<b>\$740,000</b>
Utilities		\$7,000			<b>\$7,000</b>
Contracts - Interagency	\$104,000	\$144,000	\$68,000	-\$68,000	<b>\$248,000</b>
Contracts - External	\$111,000	\$891,000	\$27,000	-\$27,000	<b>\$1,002,000</b>
Distributed Cost	\$249,000	\$686,000			<b>\$935,000</b>
Data Center	\$230,000	\$215,000			<b>\$445,000</b>
Information Technology	\$80,000	\$175,000			<b>\$255,000</b>
Office Equipment	\$5,000	\$5,000			<b>\$10,000</b>
Other Items of Expense	\$5,000	\$0			<b>\$5,000</b>
<b>Totals</b>	<b>\$4,136,000</b>	<b>\$7,647,000</b>	<b>\$934,000</b>	<b>-\$934,000</b>	<b>\$11,783,000</b>

- Budget includes all annual adjustments that are confidential until published in the Governor's Budget.
- All budget has been redistributed into its proper categories in Salary and Wages, Benefits, and Operating Expenses and Equipment.
- Salary and Wages and Benefits budgets assume that all positions are filled throughout the entire year.
- Operating Expenses and Equipment budget now distributes the dollars to the proper category and includes the most recent actuals to assist in the projected amount.

## Quarter 1 Expenditures by Program

Category	Board	General Counsel	Administration	Distributed Administration	ALRB Total
Salaries and Wages	\$541,908	\$842,888	\$137,203	-\$137,203	\$1,522,000
Benefits	\$191,647	\$354,786	\$49,022	-\$49,022	\$595,456
Operating Expenses and Equipment	\$438,788	\$842,500	\$1,108	-\$1,108	\$1,095,062
Totals	\$1,172,342	\$2,040,174	\$187,333	-\$187,333	\$3,212,516

## ALRB Expenditure Projection by Program Current Year

Category	Board	General Counsel	Administration	Distributed Administration	ALRB Total
Salaries and Wages <sup>1</sup>	\$2,256,000	\$3,524,000	\$613,000	-\$613,000	\$5,780,000
Benefits <sup>2</sup>	\$790,000	\$1,233,000	\$215,000	-\$215,000	\$2,023,000
Operating Expenses and Equipment <sup>3</sup>	\$1,084,000	\$2,140,000	\$5,000	-\$5,000	\$3,224,000
Totals	\$4,130,000	\$6,897,000	\$833,000	-\$833,000	\$11,027,000

## ALRB Projected Savings Current Year

Category	Board	General Counsel	Administration	Distributed Administration	ALRB Total
Projected Savings	\$5,000	\$750,000	\$101,000	-\$101,000	\$756,000

## Facilities

Service Contracts	Board	General Counsel	Administration	ALRB Total
Headquarters – Sacramento <sup>4</sup>	\$310,000	\$120,000		\$428,000
Indio		\$50,000		\$50,000
Oxnard		\$72,000		\$72,000
Salinas		\$102,000		\$102,000
Santa Rosa		\$20,000		\$20,000
Visalia		\$66,000		\$66,000
Totals	\$310,000	\$430,000	\$0	\$740,000

- Salary projections include vacancies and current recruitment projections.
- Benefit projections at 35% of based on Quarter 1 benefit rate for ALRB.
- Operating Expenses and Equipment projection includes fully expending all encumbrances and a monthly average of expenditures.
- Percentage split based on positions in HQ. Board 72% and General Counsel 28%.



## OE&E by Program Current Year

Program	Board	General Counsel	Administration <sup>2</sup>	ALRB Total
<b>Service Contracts</b>				
BCP Contract (LWDA)		\$500,000		<b>\$500,000</b>
Creal and Creal		\$45,000		<b>\$45,000</b>
Journal Tech Training/Non-Case Tracking	\$2,800	\$3,500		<b>\$6,300</b>
Journal Tech ECourts	\$53,760	\$74,240		<b>\$128,000</b>
Law 360	\$3,179			<b>\$3,179</b>
Lexis Nexis	\$5,564	\$22,258		<b>\$27,822</b>
California Reporting	\$61,250	\$84,583		<b>\$145,833</b>
Labor Law (Posters)	\$74	\$102		<b>\$176</b>
Capitol Morning	\$853	\$1,179		<b>\$2,032</b>
Excel Interpreting	\$68,618	\$94,758		<b>\$163,375</b>
Fed Ex Courier			\$13,000	<b>\$13,000</b>
Golden State Overnight			\$2,000	<b>\$2,000</b>
Iron Mountain		\$2,450		<b>\$2,450</b>
Midtown Stationers (Paper		\$3,196	\$766	<b>\$3,962</b>
Ergo Evaluations			\$12,000	<b>\$12,000</b>
PERB Conflict Resolution			\$5,400	<b>\$5,400</b>
Philip Martin		\$16,500		<b>\$16,500</b>
Pitney Bowes	\$9,580	\$13,230		<b>\$22,810</b>
SCIF (Workers Comp)			\$101,767	<b>\$101,767</b>
Radio Bilingue		\$1,880		<b>\$1,880</b>
<b>Interagency Contracts</b>				
Cal HR (Exam, HR Net, Statewide Training)			\$27,000	<b>\$27,000</b>
California Department of Technology (DC)			\$439,000	<b>\$439,000</b>
Department of Forestry			\$2,000	<b>\$2,000</b>
Department of General Services			\$81,000	<b>\$81,000</b>
Department of Justice			\$10,000	<b>\$10,000</b>
EDD		\$22,386	\$134,938	<b>\$157,325</b>
FCCC (Students)			\$29,000	<b>\$29,000</b>
PERB Conflict Resolution			\$5,400	<b>\$5,400</b>
State Controller's Office (MIRs)			\$3,000	<b>\$3,000</b>
State Personnel Board			\$4,000	<b>\$4,000</b>
<b>Information Technology</b>				
Allied Network Solutions (Adobe)			\$4,970	<b>\$4,970</b>
AT&T Zoom	\$3,204			<b>\$3,204</b>
ENS (Managed software contract service)			\$88,809	<b>\$88,809</b>
Granite Data (Automox/Hardware supply)			\$13,247	<b>\$13,247</b>
Service Now (HF Tech Services Inc)			\$10,176	<b>\$10,176</b>
Kovarus (VMWare)			\$5,000	<b>\$5,000</b>
NTT Cisco Meraki			\$5,502	<b>\$5,502</b>
NWN (Web Ex, Spark Kits, Cal Net 3)			\$7,268	<b>\$7,268</b>
Stephen Wicklund Work			\$54,620	<b>\$54,620</b>
Xerox			\$79,954	<b>\$79,954</b>
<b>Totals</b>	<b>\$208,882</b>	<b>\$885,261</b>	<b>\$1,038,060</b>	<b>\$2,109,818</b>

1. All contracts included are costs that are most likely to repeat into future fiscal years.
2. All contracts or purchases within Administration are distributed back to the programs at the normal allocation of Board 42% and the General Counsel 58% based on funding percentages.





## Past Year ALRB Expenditures by Program<sup>1</sup>

Category	Board	General Counsel	Administration	Distributed Administration	ALRB Total
<b>BUDGET</b>					
	<b>\$4,381,000</b>	<b>\$6,962,000</b>	<b>\$974,000</b>	<b>-\$974,000</b>	<b>\$11,343,000</b>
<b>EXPENDITURES</b>					
Salaries and Wages	\$2,003,000	\$3,534,000	\$501,000	-\$501,000	<b>\$5,537,000</b>
Benefits	\$723,000	\$1,429,000	\$204,000	-\$204,000	<b>\$2,152,000</b>
Operating Expenses and Equipment	\$1,048,000	\$1,992,000	\$0	\$0	<b>\$3,040,000</b>
Goods	\$78,000	\$152,000			
Printing	\$12,000	\$43,000			
Communications	\$27,000	\$67,000			
Postage	\$4,000	\$15,000			
Insurance	\$0	\$3,000			
Travel - In State	\$16,000	\$54,000	\$4,000	-\$4,000	
Travel - Out of State	\$0	\$0			
Training and Tuition	\$14,000	\$14,000			
Rents and Leases	\$193,000	\$524,000			
Utilities	\$0	\$6,000			
Contracts - Interagency	\$99,000	\$218,000			
Contracts - External	\$0	\$10,000			
Distributed Cost	\$244,000	\$461,000	-\$4,000	\$4,000	
Departmental Services	\$0	\$7,000			
Data Center	\$226,000	\$215,000			
Information Technology	\$78,000	\$172,000			
Office Equipment	\$0	\$2,000			
Other Items of Expense	\$57,000	\$29,000			
<b>Total Expenditures</b>	<b>\$3,774,000</b>	<b>\$6,955,000</b>	<b>\$705,000</b>	<b>-\$705,000</b>	<b>\$10,729,000</b>
<b>Total Savings</b>	<b>\$544,000</b>	<b>\$7,000</b>	<b>\$269,000</b>	<b>-\$269,000</b>	<b>\$551,000</b>

1. Full fiscal year 2019-2020 expenditures.

