

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

UNITED FARM WORKERS OF AMERICA,	)	Case No. 2024-RM-002
	)	
	)	
Petitioner Labor Organization,	)	
	)	
and,	)	ORDER DENYING PETITIONER LABOR ORGANIZATION
	)	UNITED FARM WORKERS OF AMERICA’S REQUEST FOR DECISION
WONDERFUL NURSERIES, LLC,	)	
	)	
Employer.	)	Administrative Order No. 2024-05 (March 22, 2024)
_____	)	

On February 23, 2024, petitioner United Farm Workers of America (UFW) filed a majority support petition in the Visalia Regional Office of the Agricultural Labor Relations Board (ALRB or Board) under section 1156.37 of the Agricultural Labor Relations Act (ALRA or Act)<sup>1</sup> seeking to be certified as the exclusive collective bargaining representative of the agricultural employees of employer Wonderful Nurseries, LLC (Wonderful). Following an investigation of the petition and proof of support, the regional director determined the UFW established majority support. The executive secretary issued a certification designating the UFW as the exclusive collective bargaining representative of Wonderful’s agricultural employees. (See Lab. Code, § 1156.37, subd. (e)(3).) Wonderful timely filed objections to the certification.

On March 18, the Board issued an order setting certain of those objections for

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<sup>1</sup> The Act is codified at Labor Code section 1140 et seq.

hearing and denying others. (*Wonderful Nurseries, LLC* (Mar. 18, 2024) ALRB Admin. Order No. 2024-04.)<sup>2</sup> The next day, the UFW filed a “request that the Board issue an actual decision” regarding a motion it previously filed to dismiss Wonderful’s objections.<sup>3</sup> The UFW’s request is DENIED.

The UFW’s request is not of a type countenanced anywhere in our regulations. After disposing of Wonderful’s objections, some of which now are set for hearing, the matter no longer remains with the Board. Following the issuance of a Board order in a representation proceeding such as this, the only type of filing directly with the Board contemplated by our regulations is a motion for reconsideration or reopening of the record pursuant to Board regulation 20393, subdivision (c).<sup>4</sup> In such cases, “[a] party moving for reconsideration or reopening of the record must ‘show *extraordinary circumstances*, i.e., an intervening change in the law or evidence previously unavailable or newly discovered.’” (*Gerawan Farming, Inc.* (Oct. 11, 2018) ALRB Admin. Order No. 2018-13, quoting *South Lakes Dairy Farm* (2013) 39 ALRB No. 2, p. 2, emphasis in original.)

Treating the UFW’s request as a motion for reconsideration or reopening of the record, the UFW fails to meet the standard to do either. However, acknowledging that the parties in majority support cases are operating within a new statutory framework, we reiterate the role of the Board and the nature of its review of objections filed to a majority support

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<sup>2</sup> The procedural history of this matter is more fully set forth in Administrative Order No. 2024-04.

<sup>3</sup> See *id.* at p. 2, fn. 2.

<sup>4</sup> The Board’s regulations are codified at California Code of Regulations, title 8, section 20100 et seq.

certification.

The UFW cites the Board’s proposed regulation 20391 and asks if “this regulation does not apply or otherwise has no legal force or effect.” This proposed regulation is exactly that—a *proposed* regulation, which now is subject to a pending rulemaking action and currently in the public comment period. As we stated in our prior order in this matter and another matter in which the UFW is a party, that proposed regulation has not been adopted and has no legal effect. (*Wonderful Nurseries, LLC, supra*, ALRB Admin. Order No. 2024-04, p. 22; *DMB Packing Corp. dba The DiMare Company* (Nov. 6, 2013) ALRB Admin. Order No. 2023-11, p. 10.)

In *Wonderful Nurseries, LLC, supra*, ALRB Administrative Order No. 2024-04, at page 10, we further explained that “[i]n determining whether to set objections for hearing, the Board does not endeavor to assess the merits of the party’s allegations and supporting evidence. Such factfinding appropriately takes place following development of an evidentiary record.” The Board in this context performs a “gatekeeper”-type function in reviewing the objections asserted, the allegations supporting them, and the nature of the evidence produced by the objecting party. (See *Interharvest, Inc.* (1975) 1 ALRB No. 2, p. 3, fn. 1 [the requirement a party file declarations in support of objections alleging misconduct “allows the Board to screen objections to determine if there is a factual basis for them”].) If allegations of misconduct by a party are of such a nature that would warrant revocation of a certification issued pursuant to Labor Code section 1156.37, subdivision (e)(3), and are supported by competent evidence which, if accepted as true for purposes of the Board’s limited review at this preliminary stage of proceedings, the Board will set those objections for hearing. Although not directly applicable,

we note Board regulation 20365 (governing post-election objections in proceedings governed by Labor Code section 1156.3) does not provide for oppositions to or motions to dismiss objections filed by a party.<sup>5</sup>

**ORDER**

For the foregoing reasons, petitioner labor organization United Farm Workers of America's request for a decision is DENIED.

IT IS SO ORDERED.

DATED: March 22, 2024

Victoria Hassid, Chair

Isadore Hall, III, Member

Barry Broad, Member

Ralph Lightstone, Member

Cinthia N. Flores, Member

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<sup>5</sup> Regulation 20365, subdivision (c) does not require service of declarations on other parties. As we stated in our prior order, Wonderful must support its objections with testimony and evidence, including from individuals asserting allegations that form the bases of the objections set for hearing. (*Wonderful Nurseries, LLC, supra*, ALRB Admin. Order No. 2024-04, p. 14, fn. 8.)