

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

UNITED FARM WORKERS OF AMERICA,)	Case No. 2024-RM-002
)	
Petitioner Labor Organization,)	ORDER DENYING PETITIONER UNITED FARM WORKERS OF AMERICA’S APPLICATION FOR SPECIAL PERMISSION TO APPEAL INVESTIGATIVE HEARING EXAMINER’S ORDER RE: PRODUCTION OF EMPLOYEE DECLARATIONS OR A DETAILED STATEMENT OF FACTS
and,)	
WONDERFUL NURSERIES, LLC,)	
)	
Employer.)	Administrative Order No. 2024-17 (May 24, 2024)
_____)	

On February 23, 2024,¹ petitioner labor organization United Farm Workers of America (UFW) filed a majority support petition pursuant to section 1156.37 of the Agricultural Labor Relations Act (ALRA or Act).² Following a determination of majority support and the issuance of a certification by the executive secretary of the Agricultural Labor Relations Board (ALRB or Board), employer Wonderful Nurseries, LLC (Wonderful) timely filed objections to the certification pursuant to subdivision (f)(1) of section 1156.37. In *Wonderful Nurseries, LLC* (Mar. 18, 2024) ALRB Administrative Order No. 2024-04, we set for hearing Wonderful’s objection nos. 1, 2, 3, 7, 8, and 13,

¹ All dates are in 2024 unless otherwise indicated.

² The ALRA is codified at Labor Code section 1140 et seq. Subsequent statutory citations are to the Labor Code unless otherwise indicated.

and dismissed the remaining objections.

After we issued our order setting objections for hearing, the UFW filed a motion for an “actual decision” regarding a motion it previously filed seeking to dismiss Wonderful’s objections for failure to serve the UFW with the employee declarations supporting its objections or to separately produce a detailed statement of facts. We denied that motion. (*Wonderful Nurseries, LLC* (Mar. 22, 2024) ALRB Admin. Order No. 2024-05.) The UFW also filed a motion directly with the Board asking the Board to order Wonderful to produce the employee declarations or a detailed statement of facts. The Board denied that motion, without prejudice, as improperly directed to the Board. (*Wonderful Nurseries, LLC* (Mar. 22, 2024) ALRB Admin. Order No. 2024-06.) In doing so, however, we explained the well-established rules governing disclosure of employees’ written statements in our proceedings. (*Id.* at pp. 4-5.) Specifically, such statements are not subject to pre-hearing discovery, but are subject to disclosure after an employee testifies at hearing. (*Ibid.*; Board regs. 20236, subd. (a), 20274, subd. (a), 20370, subd. (p).)³

The UFW subsequently moved the IHE to require Wonderful to produce the employee declarations or a detailed statement of facts. The IHE issued an order on May 6 granting, in part, and denying, in part, the UFW’s motion. The IHE granted the motion for production of the declarations to the extent it encompassed the written statements of supervisory employees, but denied it in all other respects. (See Board reg.

³ The Board’s regulations are codified at California Code of regulations, title 8, section 20100 et seq.

20236, subd. (a).) The UFW timely filed this application for special permission to appeal the IHE's order. Wonderful filed an opposition to the application on May 20.

For the following reasons, the Board DENIES the UFW's application for special permission to appeal.⁴

DISCUSSION

Under Board regulation 20242, subdivision (b), interlocutory appeals are not allowed except upon special permission from the Board. As a general rule, the Board will entertain an interlocutory appeal only when the issues raised cannot be addressed effectively through exceptions pursuant to regulations 20282 or 20370, subdivision (j). (Board reg. 20242, subd. (b); *Premiere Raspberries, LLC* (2012) 38 ALRB No. 11, pp. 2-3; *King City Nursery, LLC* (Jan. 9, 2020) ALRB Admin. Order No. 2020-01-P, pp. 3-4.)

A party applying for special permission to appeal an interlocutory ruling must "set[] forth its position on the necessity for interim relief." (Board reg. 20242, subd. (b).) The UFW contends it needs the declarations or a statement of facts from Wonderful now to prepare for hearing and that Wonderful's refusal to produce them cannot be addressed effectively on exceptions at a later date. We disagree interlocutory review is

⁴ The UFW's application is unsupported by declarations or record evidence. The Board previously has explained that, "unlike Board regulation 20280, which provides that a case shall be deemed transferred to the Board upon the filing of an ALJ's decision, including the record of the case, Board regulation 20242 contains no similar provision. Thus, parties applying for special permission for an interim appeal, or other motions with the Board, should include all documents necessary for the Board to rule on the application." (*Tri-Fanucchi Farms* (Mar. 27, 2023) ALRB Admin. Order No. 2023-01, p. 2, fn. 2.) In the future, all parties are cautioned to include with any application filed pursuant to regulation 20242 all evidence and record materials relevant to the application.

warranted here.⁵ (See *Gerawan Farming, Inc.* (June 28, 2018) ALRB Admin. Order No. 2018-06, pp. 2-3 [denying interlocutory review of administrative law judge's order denying party's request to delay cross-examination of witness based on party's contention it was denied access to the witness' prior written statements].)

ORDER

For the foregoing reasons, the Agricultural Labor Relations Board DENIES petitioner United Farm Workers of America's application for special permission to appeal the investigative hearing examiner's order granting, in part, and denying, in part, the union's motion that employer Wonderful Nurseries, LLC produce employee declarations in its possession or, alternatively, a detailed statement of facts.

IT IS SO ORDERED.

DATED: May 24, 2024

Victoria Hassid, Chair

Barry Broad, Member

⁵ We note that many of the issues raised by the UFW were addressed in our prior order in this case. (*Wonderful Nurseries, LLC, supra*, ALRB Admin. Order No. 2024-06, pp. 3-4.) To the extent the UFW's continuing demand for the declarations or a statement of facts is based on its contention Wonderful's objections were deficient by virtue of Wonderful's failure to serve the declarations or a statement of facts on the union, the sufficiency of Wonderful's objections no longer remains in issue after the Board disposed of them, including setting some for hearing.

Ralph Lightstone, Member

Cynthia N. Flores, Member