

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

March 26, 2003

Time: 10:00 a.m.
Members Present: Chairwoman Shiroma, Board Members Barrios and Rivera,
Staff Present: Executive Secretary Barbosa, Board Counsels Wender,
Heyck and Murray.
Others Present: Marcos Camacho, Marcos Camacho a Law Corp., United
Farm Workers of America, AFL-CIO (UFW), Mark Nobili,
Mark Nobili and Associates.
Absent: Board Counsel Levy, Analyst Massie.

OPEN SESSION

1. APPROVAL OF MINUTES

The Board voted 3-0 to approve minutes from March 18, 2003 (with one minor change due to a typographical error.)

2. BOARD MEMBER COMMENT

3. PUBLIC COMMENT

Marcos Camacho commented on agenda item 6 (b) [Board Regulations Implementing Agricultural Employer-Employee Collective Bargaining and Mediation Law (Senate Bill 1156 and Assembly Bill 2596)]. Mr. Camacho, speaking on behalf of the UFW, urged the Board to adopt the proposed changes to the regulations so the rulemaking process could move forward.

4. ANNOUNCEMENTS

There is a Small Business Advocate Quarterly meeting scheduled Thursday, March 27, 2003 West Sacramento.

Monday, March 31, 2003 is a State Holiday (Cesar Chavez Holiday)

Member Barrios announced that the Western Growers' Association Legislative Reception is April 23, 2003 from 6:00 p.m. to 7:30 p.m.

Members Barrios and Rivera congratulated Chairwoman Shiroma on her receipt of the "Woman of the Year" award for the 9th Assembly District.

5. WEEKLY STATUS REPORT ON ELECTIONS, UNFAIR LABOR PRACTICE COMPLAINTS, HEARINGS AND COURT LITIGATION:

ELECTION REPORT:

NOTICE OF INTENT TO TAKE ACCESS AND NOTICE OF INTENT TO ORGANIZE: None.

PENDING ELECTION MATTERS:

Milky Way Dairy, 02-RC-2-VI

The hearing on challenged ballots closed on Thursday, February 20, 2003. The matter is pending the filing of post-hearing briefs which are due April 28, 2003. Review of the objections to the election will take place after the conclusion of the challenged ballot proceedings.

Gallo Vineyards, Inc., 03-RD-1-SAL

A petition to decertify the UFW was filed at Gallo Vineyards, Inc. on March 6, 2003. The election was held on March 13, 2003 but the ballots were impounded pending investigation of unfair labor practice charges filed by the employer and the incumbent union. Election objections have been received from the UFW. To date, no election objections have been received from the employer.

COMPLAINT REPORT

No new complaints have issued.

PREHEARING OR SETTLEMENT CONFERENCES

SCHEDULED: None.

NEW CASES SET FOR HEARING: None.

HEARINGS IN PROGRESS:

Rivera Vineyard, 01-CE-317-EC(R)

The hearing opened on Monday, March 25, 2003, and is still in progress.

SIX CASES ON CALENDAR:

UFW (L.E. Cooke), 00-CL-1-VI

The hearing is set for April 1, 2003.

Grimmway Enterprises, Inc., 02-CE-3-EC(R)

The pre-hearing conference is set for April 22, 2003.

The hearing is set for April 29, 2003.

Sun City Growers, 02-CE-53-EC(R)

The pre-hearing conference is set for May 13, 2003.

The hearing is set for May 28, 2003.

Northend Equipment Inc., 02-CE-48-EC

The pre-hearing conference is set for June 17, 2003.

The hearing is set for June 24, 2003.

Fresh Pic Harvest, 01-CE-52-EC(R)

The pre-hearing conference is set for July 15, 2003.

The hearing is set for August 5, 2003.

Sierra Packing Co., Inc., 02-CE-40-EC.

The pre-hearing conference is set for September 16, 2003.

The hearing is set for September 30, 2003.

CASES PENDING EXCEPTIONS/REPLY: None.

CASES SETTLED OR RESOLVED: None.

COMPLIANCE CASES CLOSED: None.

NEW CASES TRANSFERRED TO BOARD FOR DECISION: None

BOARD DECISIONS: None

COURT LITIGATION:

McCaffrey Goldner Roses, F041479

The matter is now pending oral argument or a decision by the court.

Western Growers Association, et al., 03AS00987

The summons and complaint were served on the Board Members and Executive Secretary on February 25, 2003. The matter is

pending the submission of a response to the complaint. The response is presently due on March 27, 2003. Board Counsel Wender reported that notice had been received that both the UFW and UFCW are intervening in the action.

6. BUDGET AND ADMINISTRATION

(a) **Information Technology and Web Site Development Project:**
No report.

(b) **Regulations – Board Regulations Implementing Agricultural Employer-Employee Collective Bargaining and Mediation Law (Senate Bill 1156 and Assembly Bill 2596) Update:**

As part of the Board's regularly scheduled meeting, the Board took up in open session the issue of the modifications to proposed sections 20406 and 20407 of the regulations implementing SB 1156 and AB 2596 (Mandatory Mediation and Conciliation) that were the subject of a 15-day notice issued on March 7, 2003. The Board adopted all of the other sections of the regulations on March 4, 2003. Board Counsel Wender reported that the 15-day comment period ended on March 24, and that no comments were received. A motion to adopt sections 20406 and 20407 as modified in the March 7 notice was made, seconded, and passed on a 3-0 vote of the Board.

The Board then discussed the issue of whether to request that the regulations go into effect upon filing with the Secretary of State, rather than the normal 30 days after filing. It was noted that under the definition of renewed demand to bargain contained in section 20400, subdivision (a)(2), a timely declaration seeking mediation could be filed as early as April 1. It also was noted that, based on the information known to the Board, the earliest renewed demand to bargain was made in late January. Therefore, the first timely declaration could arrive in late April. Given the complexity of the process inherent in the statute and the need for detailed regulations to flush out that process and ensure due process, the Board believes that it is important for the regulations to go into effect at the earliest possible date so as not to delay the processing of declarations seeking mediation. Given the 30 working days that the Office of Administrative Law (OAL) has to approve the regulations, the effective date could be as late as the middle of June, more than a month and a half after the first timely declaration. Therefore, the Board voted 3-0 to

request that the regulations be effective upon filing with the Secretary of State and that OAL expedite its review of the regulations.

Proposed Amendments to Conflict of Interest Code:

Board Counsel Heyck reported that a notice of proposed amendments to the ALRB conflict of interest code had been filed with the Office of Administrative Law (OAL) on March 20, 2003, and that the notice will be published in the notice register on April 4, 2003. A 45-day comment period on the proposed changes will commence on April 4, 2003.

(c) **Budget – Prehearing meeting:**

Chairwoman Shiroma and Executive Secretary Barbosa reported that they attended a budget pre-hearing meeting on March 26, 2003. The hearing will take place on April 3, 2003 following adjournment of the Senate.

(d) **Policies and Procedures:**

No new activity.

(d) **Labor and Workforce Development Agency:**

Board Member Barrios reported that she will attend the Case Management Committee meeting on March 27, 2003. She expects to receive more information about assistance with the ALRB's case tracking system. Board Member Rivera reported on the hearing on the underground economy that she attended. She also circulated a status report on cross training efforts that had been generated by the training workgroup.

(f) **Annual Reports for 2000/2001 and 2001/2002:**

Analyst Massie will circulate the Annual Report for one final review.

(g) **Strategic Plan:** The matter is pending proposed revisions by Chairwoman Shiroma.

7. **OUTREACH PROJECT:**

Novela and Brochures:

Javier Juarez will attend the Board meeting on April 2, 2003 to discuss the novela. Executive Secretary Barbosa brought up the issue of updating regional office addresses and phone numbers on the brochures.

ALRB Fact Sheet update: Member Barrios asked for any final revisions to the ALRB Fact Sheet. Once all changes have been incorporated, the Fact Sheet will be sent out for translation into Spanish.

8. LEGISLATION:

Board Counsel Wender reported the following on pending legislation:

Senate Bill 75 (Burton)-- Agricultural Labor Relations

This bill would require the Board, by July 1, 2004, to compile a list of all certified labor organizations that have not obtained a collective bargaining agreement with the employer of the agricultural employees represented by the labor organization and to post the list, along with specified information, on the board's Web site. This bill would further require the board, by July 1, 2004, to advise each labor organization on the list and each respective employer of their rights and responsibilities under those provisions of the Labor Code providing for mandatory mediation to achieve a collective bargaining agreement. The bill has been set for hearing on March 26, 2003 at 9:30 a.m. Mr. Wender circulated a bill analysis.

Mr Wender reported that there were no new updates on the following pending legislation:

AB 1722 (Committee on Labor and Employment)

This bill was introduced on February 27, 2003. It would require the Governor to appoint 2 legal advisors for each ALRB board member upon recommendation of that board member, to serve at the pleasure of the recommending board member and to receive a salary to be fixed by the board with the approval of the Department of Personnel Administration.

Senate Bill X1 1(Poochigian)--State Economy: Suspension of Statutes

Various statutes enacted in the 2001-02 Regular Session of the Legislature, relating to workers' compensation, labor standards, and agricultural labor relations, will take effect on January 1, 2003. This bill would provide that these statutes shall not become operative until the date the Governor issues a proclamation declaring that the California economy has fully recovered from the recession that began in 2000. Among the affected statutes would be Senate Bill 1156 and Assembly Bill 2596 which created the Mandatory Mediation Law as to which the Board has issued proposed regulations. This bill would declare that it is to take effect immediately as an urgency statute.

Senate Constitutional Amendment 1 (Burton)--Access to government information.

This measure would provide that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. It would provide that, except as otherwise provided in the California Constitution, the people have a right to attend, observe, and be heard in the meetings of elected and appointed public bodies, and to inspect and obtain copies of records made or received in connection with the official business of any public body, agency, officer, or employee, or anyone acting on behalf of a public body, agency, officer, or employee.

This measure also would provide that nothing in its provisions supersedes the right to privacy guaranteed by the California Constitution, or limits the ability of the Legislature to provide by statute, or the Judicial Council to provide by rule not inconsistent with statute, for the protection of personal privacy.

AB 556 (Strickland) State boards and commissions: salaries: suspension.

This bill would specify that members appointed to specified state boards and commissions shall receive no salary for the 2003-04, 2004-05, and 2005-06 fiscal years, except that they may receive a per diem payment set pursuant to these provisions during that time.

9. **PERSONNEL:**
Board Member Barrios reported that four law students will be participating in summer internships with the ALRB. They are expected to begin in late May.
10. **COMPLIANCE:** No report.
11. **FUTURE AGENDA REVIEW:** None.

PUBLIC MEETING ADJOURNED AT: 11:40 a.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION