

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

May 6, 2003

Time: 1:30 p.m.
Members Present: Chairwoman Shiroma, Board Members Barrios and Rivera,
Staff Present: Executive Secretary Barbosa, Board Counsels Wender,
Heyck, and Murray, Analyst Massie.

Absent: Board Counsel Levy

OPEN SESSION

1. APPROVAL OF MINUTES

The Board voted 3-0 to approve the Board meeting minutes from April 30, 2003, and the Regional Directors' Quarterly meeting minutes from April 23, 2003.

2. BOARD MEMBER COMMENT

None.

3. PUBLIC COMMENT

None.

4. ANNOUNCEMENTS

California Women in Agriculture will be holding a legislative reception celebrating the agricultural industry on Tuesday May 21, 2003 from 5:30 p.m. to 7:30 p.m.

The 39th Annual El Dorado County Agricultural Tour is June 6, 2003.

A workshop on ethical decision making and California leveraged procurement is May 12, 2003.

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 parties post-hearing briefs were received April 29, 2003. The matter is pending decision by the Investigative Hearing Examiner. 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 (ULP) charges filed by the employer and the incumbent union. On April 14, 2003 the General Counsel issued a complaint with respect to one charge and dismissed two others. The matter is pending resolution of the remaining ULP charge.

COMPLAINT REPORT

None.

PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED

None.

NEW CASES SET FOR HEARING

Two new cases set for hearing:

Gallo Vineyards, Inc., 03-CE-9-SAL

Coastal Berry of California, Farmworkers Committee, 01-CL-3-SAL

HEARINGS IN PROGRESS:

None.

SIX CASES ON CALENDAR

Gallo Vineyards, Inc., 03-CE-9-SAL

The pre-hearing conference is set for June 9, 2003.

The hearing is set for June 23, 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.

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

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

The hearing is set for October 28, 2003.

Coastal Berry of California,

Farmworkers Committee, 01-CL-3-SAL

The pre-hearing conference is set for November 6, 2003.

The hearing is set for November 20, 2003.

THREE CASES PENDING ALJ/IHE DECISION:

Milky Way Dairy, 02-RC-2-VI

The matter is pending a decision by the Investigative Hearing Examiner.

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

The hearing closed on March 31, 2003. The matter is pending the filing of post-hearing briefs, which are due on May 9, 2003.

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

The hearing closed on April 7, 2003. The matter is pending the filing of post hearing briefs, which are currently due May 21, 2003. (a request for extension of time to file briefs was received May 5-pending ruling by ES)

CASES PENDING EXCEPTIONS/REPLY

None.

CASES SETTLED OR RESOLVED

None.

BACKPAY SPECIFICATIONS ISSUED

Maria G. Duran, 01-CE-606-EC (R)

Backpay specification issued on April 29, 2003.

COMPLIANCE CASES CLOSED

None.

NEW CASES TRANSFERRED TO BOARD FOR DECISION

None.

BOARD DECISIONS

None

REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION LAW

The Hess Collection Winery, Request for Mediation, Case No. 2003-MMC-01:

On April 14, 2003, the Board issued an order granting the parties' joint request to hold the matter in abeyance, but only until the effective date of the proposed regulations or until further order of the Board. The matter is pending OAL approval of the Board's regulations.

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 Board Members and the Executive Secretary on February 25, 2003. The matter is pending submission of a response to the complaint. The deadline is May 9, 2003.

Pictsweet Mushroom Farms, B166260

The employer filed a petition for writ of review with the Second Appellate District Court, Division Six, seeking review of the Board's

decision in **Pictsweet Mushroom Farms**, 29 ALRB No. 1. The Petitioner's opening brief is due on May 30, 2003.

6. BUDGET AND ADMINISTRATION

(a) Information Technology and Web Site Development Project

The Board authorized the purchase of a laminating machine.

(b) Regulations

Board Counsel Wender had nothing new to report on the proposed regulations implementing the mandatory mediation and conciliation law that are currently under review by the Office of Administrative Law (OAL).

Board Counsel Heyck reported that Monday May 5, 2003 was the final day to request a public hearing on the proposed amendments to the agency's conflict of interest code. None were received. The end of the 45-day written comment period on the proposed amendments is May 19, 2003.

On May 2, 2003, a letter was sent to Senator Glora Romero requesting a Legislative Counsel opinion on the Agricultural Employee Relief Fund (AERF). Senator Romero is the author of Senate Bill 1198 which created the AERF.

(c) Budget

No new activity to report.

(d) Policies and Procedures

Board Member Barrios circulated internal policies on the Family Medical Leave Act and Employment Discrimination based on Disability and Reasonable Accommodation. She reported that these policies had been reviewed by the Policies and Procedures Committee in light of recent case law. There were no changes to either policy. The Board will review the policies for two weeks.

(e) Labor and Workforce Development Agency

Gloria Barrios reported that Deputy General Counsel Sobel and Board Counsel Murray will be meeting on May 7, 2003 with Case Tracking/Case Management Committee representatives.

Board Member Rivera reported that she attended a meeting of the Subcommittee on Enforcement on May 6, 2003, and that she would circulate a summary of topics discussed at the meeting.

Board Member Rivera will follow up on the referral report requested by the Lead Referral Workgroup.

(f) Strategic Plan

No new activity to report.

(g) El Centro Visit

The Board will visit the El Centro regional office on May 7-8, 2003.

(h) Annual Report

Board Member Barrios will follow up with Janet Coffman at the Labor and Workforce Development Agency regarding printing the ALRB annual report.

7. OUTREACH PROJECT

(a) Novela

The Board discussed the contract for work on the agency novela.

(b) Brochures

Board Counsel Heyck will follow up with Janet Coffman at the Labor and Workforce Development Agency regarding printing the new agency outreach brochures.

8. LEGISLATION:

Board Counsel Wender reported on the following pending legislation:

Senate Bill 796 (Dunn)—Employment

Under existing law, the Labor and Workforce Development Agency and its departments, divisions, commissions, boards, agencies, or employees may assess and collect penalties for violations of the Labor Code. This bill would allow aggrieved employees to bring civil actions to recover these penalties, if the agency or its departments, divisions, commissions, boards, agencies, or employees do not do so. The penalties collected in these actions would be distributed 50% to the General Fund, 25% to the agency for education, to be available for expenditure upon appropriation by the Legislature, and 25% to the aggrieved employee, except that if the person does not employ one or

more persons, the penalties would be distributed 50% to the General Fund and 50% to the agency. In addition, the aggrieved employee would be authorized to recover attorney's fees and costs. For any violation of the code for which no civil penalty is otherwise established, the bill would establish a civil penalty.

On May 1, 2003, the bill was read a second time, and was amended. It was re-referred to the Committee on Appropriations.

Board Counsel Wender reported that there were no changes on the following pending legislation:

- Senate Bill 75 (Burton)--Agricultural Labor Relations
- Assembly Bill 1722 (Committee on Labor and Employment)—Agricultural Labor Relations Board
- Assembly Bill 556 (Strickland)—State Boards and Commissions: salaries: suspension
- Senate Bill X1 1 (Poochigin)—State Economy: Suspension of Statutes
- State Constitutional Amendment 1 (Burton)—Access to government information

9. PERSONNEL

The hiring freeze exemption for the vacant Chief Administrative Law Judge position has been prepared and is ready to be signed by the Executive Secretary.

10. COMPLIANCE

Nothing new to report.

11. FUTURE AGENDA REVIEW

None.

12. PUBLIC MEETING ADJOURNED AT: 2:50 P.M.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION