

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

May 14, 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.

Absent: Board Counsel Levy, Analyst Massie.

OPEN SESSION

1. APPROVAL OF MINUTES

The Board voted 3-0 to approve the Board meeting minutes from May 6, 2003.

2. BOARD MEMBER COMMENT

None.

3. PUBLIC COMMENT

None.

4. ANNOUNCEMENTS

Executive Secretary Barbosa attended a workshop on ethical decision making and California leveraged procurement on May 12, 2003.

Board Counsel Heyck will attend the North Kern Employers Advisory Counsel next Wednesday, May 21, 2003 in Delano where she will speak on the new mandatory mediation and conciliation law and the Board's regulations.

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.

Board Counsel Murray reported that the ALRB had come in second in the annual State Employee Food Drive (on a per capita basis).

Chairwoman Shiroma reported that the California Grape and Tree Fruit League Board will be in Sacramento on May 27, 2003.

All ALRB employees filing a Statement of Economic Interests must complete the ethics orientation training by June 2003. More information to follow.

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 UFW has requested review of the dismissed charges. The matter is pending resolution of the remaining ULP charge.

COMPLAINT REPORT

None.

PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED

None.

NO NEW CASES SET FOR HEARING

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 14, 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 June 4, 2003.

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 May 8, 2003, the Board issued an order notifying the parties that the matter is no longer held in abeyance as the Board's regulations implementing the mandatory mediation and conciliation law went into effect on May 7, 2003. The Employer's answer to the Union's declaration is due on or before May 16, 2003.

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. A demurrer to the complaint was filed on 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. Board Counsel Murray reported that he had negotiated a stipulation for an extended briefing schedule. The stipulation is pending approval by the court.

6. BUDGET AND ADMINISTRATION

(a) Information Technology and Web Site Development Project

No new activity.

(b) Regulations

Board Counsel Wender reported that the proposed regulations implementing the mandatory mediation and conciliation law were approved by the Office of Administrative Law (OAL) on May 7, 2003. The Board also received formal notification that the regulations had been filed with the Secretary of State and are therefore now in effect.

The end of the 45-day written comment period on the proposed amendments to the ALRB conflict of interest code is May 19, 2003. The Board will deliberate on the amendments on May 21, 2003.

(c) Budget

The Governor's revised budget will be unveiled on May 14, 2003. The Board, Deputy General Counsel Sobel, and Accounting Manager Davis met with Carrie Nevans to discuss the 2002-2003 budget projections summary. The Board and Deputy General Counsel discussed possible items that could be purchased with funds remaining at the end of fiscal year 2002/2003.

(d) Policies and Procedures

No new activity to report.

- (e) **Labor and Workforce Development Agency**
General Counsel Turner, Deputy General Counsel Sobel, Board Member Barrios and Board Counsel Murray met on May 7, 2003 with Case Tracking/Case Management Committee representatives. The main topic discussed was a feasibility study for a new case tracking/case management system for the ALRB.
- (f) **Strategic Plan**
Chairwoman Shiroma will circulate a summary of accomplishments for the strategic plan next week.

7. OUTREACH PROJECT

- (a) **Novela-** Nothing new to report.
- (b) **Brochures-** El Centro Field Examiner Mauricio Nuno provided a computer disk with corrected Spanish translations of the new brochures designed for employees.

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 12, 2003, the bill was amended by the author (amendments were nonsubstantive). It was re-referred to the Committee on Appropriations. The bill was set for hearing on May 19, 2003.

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.

On May 6, 2003, the measure was amended by the author. The amendments clarified that the measure would not repeal or nullify any existing statutory exception to the right of access to public records or meetings of public bodies. A hearing on the measure was held on May 13, 2003. The vote was to adopt the measure but to first be re-referred to the Committee on Constitutional Amendments.

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 (Poochigian)—State Economy: Suspension of Statutes

9. PERSONNEL

The request for hiring freeze exemption for the Chief ALJ position is pending. Law students volunteering at the ALRB this summer will attend the Board meeting on May 21, 2003.

10. COMPLIANCE

No new activity to report.

11. FUTURE AGENDA REVIEW

The Board discussed visiting the Salinas regional office on June 9-10, 2003.

12. PUBLIC MEETING ADJOURNED AT: 11:30 a.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION. THE BOARD RECONVENED OPEN SESSION AT 1:35 p.m, AND ADJOURNED FOR A FINAL TIME AT 2:30 p.m.