

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**BOARD MEETING MINUTES**

**Board Conference Room  
915 Capitol Mall, 3<sup>rd</sup> Floor  
Sacramento, CA 95814**

**July 9, 2003**

Time: 10:00 a.m.  
Members Present: Chairwoman Shiroma, Board Members Barrios and Rivera  
Staff Present: Executive Secretary Barbosa, Board Counsels Wender and Murray, Analyst Massie; Finance Officer Nevans, Law Student Interns Autumn Gonzales, Ben Nicholson, Colleen Van Egmond and Diana Castillo.  
Staff Absent: Board Counsel Heyck  
Others Present:

**OPEN SESSION**

**1. APPROVAL OF MINUTES**

The Board voted 3-0 to approve the Board meeting minutes from July 2, 2003.

**2. BOARD MEMBER COMMENT**

None.

**3. PUBLIC COMMENT**

None.

**4. ANNOUNCEMENTS**

The Board congratulated Nancy Davis on receipt of an Award for Achieving Excellence in Financial Reporting For the Preparation of the Fiduciary Funds Outside the Centralized Treasury System Financial Report for the Fiscal Year Ended June 30, 2002, presented by the California State Controller.

The next regularly Board Meeting will be held at 1:30 p.m. on Tuesday, July 15, 2003.

The Regional Director's Quarterly Meeting will be held on Wednesday, July 16, 2003, at 10:00 a.m.

**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 Investigative Hearing Examiner issued her decision on challenged ballots on May 20, 2003. Both the employer and petitioner filed exceptions to her decision on June 2, 2003. The reply from the employer was received on June 12, 2003. No reply was received from the petitioner. The matter is pending before the Board on decision.

**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, however the ballots were impounded pending investigation of unfair labor practice (ULP) charges filed by the incumbent union.

On April 14, 2003, the General Counsel issued a complaint with respect to one of the charges (03-CE-9-SAL) and dismissed the other two (03-CE-10 & 11-SAL). The UFW has requested a review of the dismissal of the CE-10 case. Currently, the matter is pending resolution of this request as well as of the CE-9 Complaint.

The hearing on charge 03-CE-9-SAL ended on Thursday, July 3, 2003. The matter is pending receipt of the transcripts and submission of post-hearing briefs.

**Countryside Mushrooms, Inc., 03-RC-1-SAL**

On May 16, 2003 the UFW filed a representation petition with the Salinas Regional Office seeking to represent the agricultural employees of Countryside Mushrooms, Inc. The employer is based in Gilroy and has

approximately 70 employees. The election was held on Friday, May 23, 2003 with the following results:

UFW	28
No Union	14
Unresolved CBs	15
Total	57

The unresolved challenged ballots were sufficient to affect the results of the election so the RD investigated the challenges. The regional director issued his report on challenged ballots on July 1, 2003. The RD sustained 14 challenges and resolved 1 challenge (i.e., RD unable to determine whether the work performed by one employee was agricultural or non-agricultural and therefore recommend that this issue be resolved by a hearing on the matter should his ballot be outcome determinative). . Exceptions are due July 9, 2003. Neither party filed election objections so the final tally will determine whether the UFW or No Union choice obtained a majority vote.

**Inland Empire CA Ranch DBA Costa Dairy Farms, 03-RC-1-VI**

On June 18, 2003 the UFCW filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees of Inland Empire CA Ranch DBA Costa Dairy Farms. The employer is a dairy based in Wasco and has approximately 40 employees. The election was held on June 25, 2003 with the following results:

UFCW	24
No Union	13
Unresolved CBs	2
Total	39

Election objections, if any, were due July 2, 2003. No objections were filed so issued a certification of representation on July 3, 2003.

**Garrouette Farms, 03-NA-3-SAL, 03-NO-3-SAL and 03-RC-2-SAL**

The UFW filed an NA, NO and RC with the Salinas Regional Office on July 8, 2003 seeking to represent the agricultural employees of Garrouette Farms. The employer, who is located in Watsonville and grows strawberries, has approximately 300 employees. The petition is currently under investigation.

**COMPLAINT REPORT**

None.

**PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED**

None.

**NEW CASES SET FOR HEARING**

None.

**HEARINGS IN PROGRESS:**

None.

**FIVE CASES ON CALENDAR**

**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,  
Farm Workers' Committee, 01-CL-3-SAL**

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

The hearing is set for November 20, 2003.

**US Abalone, 01-CE-59-SAL**

The pre-hearing conference is set for November 18, 2003.

The hearing is set for December 2, 2003.

**Maria G. Duran, Farm Labor Contractor, 01-CE-606-EC(R)**

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

The hearing is set for December 9, 2003.

**TO CASES PENDING ALJ DECISION:**

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

The hearing closed on April 7, 2003. The post hearing briefs were received June 4, 2003. The matter is pending the ALJ's decision.

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

The hearing closed on July 3, 2003 and the matter is pending receipt of the transcripts and the parties' post hearing briefs.

**NO ALJ/IHE DECISIONS HAVE ISSUED:**

**ONE CASE PENDING EXCEPTIONS OR REPLY:**

**Rivera Vineyards et al., 01-CE-317-EC(R)**

Exceptions due July 14, 2003.

Reply briefs due July 28, 2003.

**CASES SETTLED OR RESOLVED**

None.

**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 21, 2003, the Board issued its order directing the parties to mandatory mediation and conciliation. On May 28, 2003, the California State Mediation & Conciliation Service (CSMCS) issued its list of mediators to the parties. On June 6, 2003 the parties informed the CSMCS that they had selected a mediator.

**Pictsweet Mushroom Farms**, Request for Mediation,  
Case No. 2003-MMC-02:

On July 7, 2003 the Board received a petition for mediation from the UFW concerning Pictsweet Mushroom Farms. The Employer's response was received today.

**COURT LITIGATION**

**Western Growers Association**, et al., 03AS00987

The summons and complaint were served on Board Members and the Executive Secretary on February 25, 2003. A motion to

intervene filed by the United Farm Workers of America, AFL-CIO and the United Food and Commercial Workers Union, Fresh Fruit & Vegetable Workers, Local 1096 was granted on April 10, 2003. On May 9, 2003, the intervening unions (the UFW and the UFCW) filed a motion for judgment on the pleadings or to dismiss. This motion generally raised the same issues as the demurrer filed by the Attorney General on behalf of the Board. On May 13, 2003, the plaintiffs in the lawsuit filed a demurrer to the intervener's complaint in intervention. The two demurrers and the motion for judgment on the pleadings were held on June 24, 2003. The court rejected the Board's argument on jurisdiction but agreed with its argument that the matter is not ripe for adjudication. Based on his rulings, the judge stated his intention to dismiss the complaint with leave to file amended complaint within 14 days after a completed mediation process resulting in an imposed contract, i.e., after the Board issues an order on an appeal from a mediator's report fixing the terms of a contract. In the first mediation case (Hess Collection Winery), the parties have selected a mediator, but no mediation sessions have yet taken place. Consequently, it will be at least several months before the case could be ripe under the judge's stated standard. On July 2, the Superior Court heard the plaintiffs' ex parte request to shorten time to file a motion for reconsideration of the judge's ruling of June 24. The request technically was granted, but the hearing on the motion for reconsideration was set for August 1, well beyond the date sought by the plaintiffs

**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. Counsel Murray reported that the Petitioner's opening brief is due July 14, 2003 with the Board's Response brief is due on September 27, 2003. If Petitioner wishes to file a Reply brief, it will be due October 28, 2003.

## **6. BUDGET AND ADMINISTRATION**

- (a) Information Technology**  
Analyst Massie reported on the status of the inventory of the agency's computer equipment.
- (b) Regulations**  
The Board will require law student interns to file a Statement of Economic Interest (Form 700). The Board determined that including the students as designated employees did not require a regulatory change.
- (c) Budget**  
Finance Officer Nevans confirmed that no travel advances or reimbursement for travel expenses will be paid until a budget is passed. She also reported that no budget change proposals will be allowed during the current fiscal year.
- (d) Policies and Procedures**  
Member Barrios reported on the status of the Operational Recovery Plan.
- (e) Labor and Workforce Development Agency**  
Member Barrios gave an update on the case tracking system.

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

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**July 9, 2003**

Time: 2:00 p.m.  
Members Present: Chairwoman Shiroma, Board Members Barrios and Rivera  
Staff Present: Executive Secretary Barbosa, Board Counsels Wender and Murray, Analyst Massie; Law Student Interns Autumn Gonzales and Ben Nicholson.  
Staff Absent: Board Counsel Heyck  
Others Present:

**6. BUDGET AND ADMINISTRATION**

- (f) **Strategic Plan**  
None.
- (g) **Annual Report**  
Member Barrios reported on status of 2000-01/2001-02 Annual Report. Executive Secretary Barbosa discussed Staff Assignments for 2003-03 Annual Report.

**7. OUTREACH PROJECT**

- (a) **Novela**  
The Board discussed the latest revisions to the Novela.
- (b) **Brochures**  
None.

**8. LEGISLATION:**

Board Counsel Wender reported on the following pending legislation:

S.B. 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 passed out of the Committee on Appropriations on July 3. On July 6, the bill was read a second time and is on file for a third reading.**

S.C.A. 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 July 7, 2003, the bill was referred to the Committees on Government Organization, Rules & Constitutional Amendments.**

SB 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 June 19, the bill was re-referred to Committees on the Judiciary and Labor & Employment. On June 26, the bill passed out of the Judiciary Committee and was re-referred to Committee on Labor & Employment.

**On July 2, the bill was amended and re-referred to committee.**

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

- Assembly Bill 1722 (Committee on Labor and Employment)—Agricultural Labor Relations Board
- Assembly Bill 556 (Strickland)—State Boards and Commissions: salaries: suspension
- State Constitutional Amendment 1 (Burton)—Access to government information

**9. PERSONNEL**

None.

**10. COMPLIANCE**

The Board reviewed the Quarterly Compliance Report. Further review and discussion will be held with the General Counsel at the Board Meeting on July 15th.

**11. FUTURE AGENDA REVIEW**

New Forms.

**12. PUBLIC MEETING ADJOURNED AT: 2:30 p.m.**

**WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION**