

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**BOARD MEETING MINUTES**

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

**August 13, 2003**

Time: 10:25 a.m.  
Members Present: Chairwoman Shiroma, Board Members Barrios and Rivera  
Staff Present: Executive Secretary Barbosa, Board Counsel Wender,  
Murray and Heyck; Analyst Massie.  
Staff Absent:  
Others Present:

**OPEN SESSION**

**1. APPROVAL OF MINUTES**

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

**2. BOARD MEMBER COMMENT**

None.

**3. PUBLIC COMMENT**

None.

**4. ANNOUNCEMENTS**

Executive Secretary to meet with representative from Lexus-Nexus on Friday, August 15, 2003, at 10 a.m. to discuss online legal research proposal.

The Labor and Workforce Development Agency advised the ALRB that EDD and CUIAB had been hit with a worm virus called MSBLAST and to take appropriate measures to ensure protection and eradication of the virus.

**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 employer filed its reply on June 12, 2003. No reply was received from the petitioner. The matter is pending decision before the Board.

**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 General Counsel overturned the dismissal of the CE-10 case. Currently, the matter is pending resolution 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 post-hearing briefs which are due on August 29, 2003.

**Sonoma-Cutrer Vineyards, Inc., 03-RD-3-SAL**

On July 23, 2003 agricultural employee Alfred Vasquez filed a decertification petition with the Salinas Regional Office seeking the ouster of the certified bargaining representative UFW. On July 30, 2003 the UFW requested that the Board reverse the Regional Director's July 29, 2003 decision that the ballots should not be impounded pending investigation of various charges filed during the week preceding the election. The Board denied this request and the election was held on July 30, 2003 with the following results:

|     |                               |
|-----|-------------------------------|
| 77  | No Union                      |
| 31  | UFW                           |
| 10  | Unresolved Challenged Ballots |
| 118 | Total                         |

Election objections, if any, are due August 6, 2003. None were filed. The Executive Secretary issued a certification of results of election on August 13, 2003 as the no union choice received a majority of the valid ballots cast and neither party filed objections to the election.

**Bob Borba Livestock, 03-RC-2-VI**

On August 1, 2003 International Brotherhood of Teamsters, Local 386 filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees at Bob Borba Livestock in Turlock, CA. The election was held on August 8, 2003 with the following results:

|                     |   |
|---------------------|---|
| Teamsters Local 386 | 3 |
| No Union            | 1 |
| UCBs                | 0 |
| Total               | 4 |

Election objections, if any, are due August 15, 2003.

**Vincent B. Zaninovich & Sons, Inc., 03-NO-8-VI**

The UFW filed an NA and NO in Vincent B. Zaninovich & Sons, Inc., 03-NO-8-VI . The unit is comprised of approximately 1,200 employees. The NO list was submitted last Friday and the Regional Office determined that the showing of interest was met. No petition for election has been filed as of this date.

**Kovacevich "5" Farms, 03-RC-3-VI**

On August 12, 2003 the UFW filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees at Kovacevich "5" Farms. The employer, which has approximately 300 employees, is a table grape grower located in Delano, CA. The Regional Director is investigating the election petition.

**COMPLAINT REPORT**

None.

**PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED**

None.

## **NEW CASES SET FOR HEARING**

None.

## **HEARINGS IN PROGRESS:**

None.

## **SIX 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.

### **Rancho Ramona Dairy, 02-CE-5-EC(R)**

The pre-hearing conference is set for November 19, 2003.

The hearing is set for December 8, 2003.

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

The pre-hearing conference is set for January 14, 2004.

The hearing is set for February 4, 2004.

## **ONE CASE PENDING ALJ DECISION:**

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

The hearing closed on July 3, 2003. The post hearing briefs are due August 29, 2003.

## **ALJ/IHE DECISIONS ISSUED**

None.

## **ONE CASE PENDING EXCEPTIONS AND/OR REPLY:**

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

The ALJ decision issued July 29, 2003.

Exceptions are due August 21, 2003.

Reply briefs due September 4, 2003.

## **CASES SETTLED OR RESOLVED**

None.

## **COMPLIANCE CASES CLOSED**

None.

## **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 on July 9, 2003. On July 11, 2003 the Board requested briefing on the following novel issue:

Whether a certified labor organization's request for mandatory mediation with a successor employer under Labor Code section 1164 precluded from meeting the requirement in Labor Code section 1164.11, subdivision (c), that 'the parties

have not previously had a binding contract between them' where the certified labor organization had a contract with the predecessor employer but not with the present employer, who succeeded to the bargaining obligations.

On July 14, 2003 the Board granted the employer's request for a one-week extension of time to file briefs. On July 25, 2003 both the employer and union filed their responsive briefs. The Board decision on the petition for mandatory mediation issued on August 1, 2003. The Board granted the UFW's request for mandatory mediation and ordered the parties to mandatory mediation and conciliation of their issues. The California Mediation and Conciliation Service sent the parties a list of mediators.

## **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 intervenor'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. The Petitioner's opening brief was received on July 15, 2003 with the Board's Response brief 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 unusual level of activity of older viruses as well as the blaster worm.
- (b) **Regulations** – Board Counsel Heyck reported that final changes were submitted to the Fair Political Practices Commission and we are awaiting approval.
- (c) **Budget** – As required, the Board submitted its 16% reduction plan to Department of Finance.
- (d) **Policies and Procedures** – None.
- (e) **Labor and Workforce Development Agency** – The meeting with LWDA General Counsel Bob Dresser will be rescheduled.
- (f) **Strategic Plan** – None.
- (g) **Annual Report** – None.
- (h) **Procedural Manual (Style Manual)** – Staff meeting to discuss office procedural manuals was postponed and needs to be rescheduled.

## 7. OUTREACH PROJECT

(a) **Novella**

The novella has been sent to the ad hoc committee for final review. Responses have been received from James Sullivan and the UFW. Board to review responses at its next meeting on August 20, 2003.

(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. On July 21, the bill was amended to delete all of the original content of the bill and replace it with several amendments to the mandatory mediation law passed last year (Labor Code secs. 1165-1164.14). Specifically, the amendments would delete the existing sunset provision, add nonexclusive standards to be followed by the mediator, and expand the grounds for review of the mediator's report. After amendment, the bill was re-referred to Assembly Committee on Labor & Employment. The July 21 amendments deleted all of the original content of the bill and replaced it with several amendments to the mandatory mediation law passed last year (Labor Code secs. 1164-1164.14). Specifically, the amendments would delete the existing sunset provision, add nonexclusive standards to be followed by the mediator, and expand the grounds for review of the mediator's report. The bill is set for hearing before the Assembly Committee on Labor and Employment on August 20, 2003.

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. The measure is scheduled for hearing on August 19, 2003, before the Assembly Committee on Elections, Redistricting, and Constitutional Amendments.

**9. PERSONNEL**

None.

**10. COMPLIANCE**

None.

**11. FUTURE AGENDA REVIEW**

None.

**12. PUBLIC MEETING ADJOURNED AT: 11:15 a.m.**

**WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION**