

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

September 24, 2003

Time: 10:15 a.m.
Members present: Chairwoman Shiroma, Board Members Barrios and Rivera
Staff Present: Board Counsels Wender, Murray and Heyck; Assistant Executive
Secretary Fong, Analyst Massie
Staff Absent: Executive Secretary Barbosa

OPEN SESSION

1. Approval Of Minutes

The Board's minutes for September 17, 2003 were approved 3-0.

2. Board Member Comment

None.

3. Public Comment

None.

4. Announcements

State Employees Charitable Campaign (formerly referred to as the United Way or UCSEC) begins October 1, 2003 and runs through October 10, 2003.

Chairwoman Shiroma mentioned the 22nd Annual Agribusiness Management Conference at the Radisson Hotel and Conference Center in Fresno Tuesday, October 28, 2003.

Board Counsel Wender announced the 31st year for the State Employees' Food Drive. Board Counsel Heyck volunteered to coordinate the drive.

5. Weekly Status Report On Elections, Unfair Labor Practice Complaints, Hearings And Court Litigation

ELECTION REPORT

NOTICE OF INTENT TO TAKE ACCESS (NA) AND NOTICE OF INTENT TO ORGANIZE (NO):

No new NAs or NOs filed.

PENDING ELECTION MATTERS:

Richard's Grove & Saralee's Vineyard, 03-RD-4-SAL

The Salinas Regional Director issued a letter announcing his decision to block the decertification election, based on a complaint issued September 9, alleging various unlawful unilateral changes. A request for review of the blocking decision is due on October 2, 2003.

Milky Way Dairy, 02-RC-2-VI

The Board issued its decision on challenged ballots on September 3, 2003. The petitioner filed a motion for reconsideration on September 9, 2003. The Executive Secretary, on his own motion, re-served the Board's decision as counsel for the Petitioner was not served with the decision. The motion for reconsideration is due September 23, 2003. Board Counsel Heyck to contact the employer and counsel.

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. Post-hearing briefs were received September 22, 2003.

COMPLAINT REPORT

Huntington Farms, 03-CE-15-SAL, 03-CL-5-SAL issued September 17, 2003.

PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED:

None.

NEW CASES SET FOR HEARING:

None.

CASES ON CALENDAR:

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.

CASE PENDING ALJ DECISION:

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

The hearing closed on July 3, 2003. Post-hearing briefs were received September 22, 2003.

ALJ/IHE DECISIONS ISSUED:

None.

CASE PENDING EXCEPTIONS AND/OR REPLY:

None.

CASES SETTLED OR RESOLVED:

None.

COMPLIANCE CASES CLOSED:

None.

CASES TRANSFERRED TO BOARD FOR DECISION:

None.

BOARD DECISIONS:

Rivera Vineyards, et al., 01-CE-317-EC(R), et al.
Complaint dismissed September 19, 2003.

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 Board issued a decision on the petition for mandatory mediation on August 1, 2003. On September 23, 2003, the Board received a copy of a letter from the UFW attorney to the assigned mediator regarding the mediator's previous request of the parties that they acknowledge his immunity from being sued for his role in the process. Since there is no request pending from the mediator to the Board, there is nothing for the Board to act on at this time.

COURT LITIGATION:

Western Growers Association, et al., 03AS00987

On Friday, August 22, the plaintiffs filed a petition for writ of mandate in the Court of Appeal, Third Appellate District, seeking to overturn a ruling by the Superior Court that the matter is not yet ripe for adjudication. The Superior Court ruled that the matter would not be ripe until the Board issues a decision fixing the terms of a collective bargaining agreement. A decision was made not to file an optional preliminary response to the petition for writ of mandate. The Court of Appeal has asked the real parties in interest to file an opposition addressing whether the superior court has subject matter jurisdiction over the matter. The deadline for filing the

opposition is September 29, but an extension of time may be requested. This lawsuit, which challenges the constitutionality of the new mandatory mediation and conciliation law (SB 1156 and AB 2596, codified as Labor Code sections 1164 to 1164.14), was filed on February 24, 2002 in the Sacramento County Superior Court.

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 the Petitioner wishes to file a reply brief, it will be due October 28, 2003.

6. Budget And Administration

(a) Information Technology:

- (1) Capital Datacorp contract for FY 2003/2004. Assistant Executive Secretary Fong presented an analysis of invoices from the previous year.

(b) Regulations

- (1) Proposed Amendments to Conflict of Interest Code: no change.
- (2) Agricultural Employees Relief Fund (AERF) - Draft amendments to the AERF and decertification regulations, Notice of Proposed Regulatory Action, Initial Statement of Reasons. Board will review regulations package by close of business September 25, 2003.

(c) Budget: none.

(d) Policies and Procedures:

- (1) Bilingual Services Policy: The Board and General Counsel will review the policy and provide comments by close of business September 24, 2003.
- (2) Policy and Procedures Committee Update: none.
- (3) Labor and Workforce Development Agency: Case Tracking System update. Work continues on the Feasibility Study Report for the data system. The Board discussed the Workgroup Computing Policy; will revise the policy and place on October 1, 2003 agenda.

(e) Strategic Plan: comments are due September 28, 2003.

(f) Annual Report:

- (1) The report for FY 2000/2001 and FY 2001/2002 was distributed September 18 & 19, 2003. Labor and Workforce Development Agency copies will be delivered September 24, 2003.
- (2) FY 2002/2003 report: no update.

(g) Manuals

- (1) Procedures Manual: no update.
- (2) Style Manual: a workplan will be developed by the Executive Secretary.

7. Outreach Projects

- (a) Novella – no update.
- (b) Brochures – Board Counsel Heyck presented draft versions of brochures. The Board on a vote of 3-0 approved the brochures.
- (c) Farmworkers' Breakfast December 5, 2003 – packets will need to be developed for El Centro and Salinas.

8. Legislation

- (a) SB 796 (Dunn): On September 18, 2003, the bill was enrolled and sent to the Governor.
- (b) SB 75 (Burton): On September 2, 2002, the bill was enrolled and sent to the Governor.

9. Personnel – none.

10. Compliance – none.

11. Future Agenda Review – none.

The public meeting adjourned at 11:50 am.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION