

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**BOARD MEETING MINUTES**

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

**October 17, 2007**

Time: 10:05 a.m.  
Members Present: Chairwoman Raymundo, Members Shiroma and Rivera-Hernandez  
Staff Present: Executive Secretary Barbosa, Board Counsel Wender, Analyst  
Massie and General Counsel Lee  
Others Present: Freddie Sanchez, UFCW; John Ulrich, UFCW

**OPEN SESSION**

**1. Approval of Minutes:** The Board minutes for October 3, 2007 will be approved at the next Board meeting.

**2. Public Comments:** None.

**3. Chair Budget Report:** Nancy Davis presented an update of the current budget.

**4. General Counsel Report:** There has been a marked increase in the number of charges being filed in the Visalia and Salinas Regional offices since last year. Twenty-three charges have been filed within the last week. Workload and current staffing issues continue to be a problem.

General Counsel Lee and Assistant General Counsel Blanco will be attending the annual Ventura County Agricultural Association social and dinner on October 18. Mr. Lee will be a panelist for a session entitled *Litigating Employment Cases in the Administrative Arena* at the 25<sup>th</sup> Annual Meeting of the Labor and Employment Law Section of the California State Bar Association on Saturday, October 20, in Berkeley.

**5. Executive Officer Report:**

**ELECTION REPORT**

**NOTICE OF INTENT TO TAKE ACCESS (NA) AND NOTICE OF INTENT TO ORGANIZE (NO):** None.

**PENDING ELECTION MATTERS:**

**Jim Nace Dairy, 07-RD-3-VI**

On May 25, 2007 agricultural employee Raul Camarena Lopez filed a decertification petition with the Visalia Regional Office seeking to decertify the incumbent union, UFCW Local 5, at Jim Nace Dairy. The employer operates a dairy in Tipton, CA with approximately 18 employees. The election was held on June 1, 2007 with the following results:

UFCW	6
No union	11
Unresolved Challenged Ballots	<u>0</u>
Total	17

Election objections, if any, were due June 8, 2007. On June 7, 2007 UFCW filed objections to the election. On June 15, the Acting Executive Secretary issued an order setting two objections for hearing and dismissing the remaining objection. Any request for review of the partial dismissal was due June 25, 2007. No request for review was filed. The hearing on objections was held on August 20, 2007. The Employer's post-hearing brief was filed September 24, 2007. The IHE's decision is pending.

**Gallo Vineyards, Inc., 07-RD-1-SAL**

On June 18, Roberto Parra filed a decertification petition seeking to remove the United Farm Workers of America as the exclusive bargaining representative of Gallo's agricultural employees in Sonoma County. The petition lists the approximate number of employees in the unit as 400. The election was held on June 25, 2007 and yielded the following results:

UFW	95
No union	125
Unresolved Challenged Ballots	<u>12</u>
Total	232

Election objections, if any, are due July 2, 2007. On July 2, 2007 the UFW filed objections to the election. The objections will be held in abeyance pending resolution of ULPs mirroring the election objections. On October 5, 2007 the Regional Director dismissed three overlapping charge (07-CE-23-SAL, 07-CE-25-SAL and 07-CE-26-SAL). One charge is still under investigation (07-CE-24-SAL). The request for review is due on October 18, 2007.

**Richard's Grove & Saralee's Vineyard, Inc., 07-RD-2-SAL**

On July 19, 2007 agricultural employee Victorino Velasquez filed a decertification petition with the Salinas Regional Office seeking an election to oust the incumbent collective bargaining representative, the United Farm Workers. Richard's Grove & Saralee's Vineyard, Inc. is a vineyard located in Windsor that is engaged in the growing of wine grapes. The petition seeks a bargaining unit consisting of all the agricultural employees in the State of California. An election was held July 26, 2007 with the following results:

No Union	39
Union	6
Unresolved Challenged Ballots	<u>3</u>
Total	48

The no union choice received a majority vote so the unresolved challenged ballots will not be resolved as they are not outcome determinative. On August 2, 2007 the UFW filed objections to the election. The objections will be held in abeyance pending resolution of an ULP charge that mirrors the allegations in the election objection. On October 4, 2007 the Regional Director dismissed the overlapping charge (07-CE-27-SAL). The request for review is due on October 17, 2007.

**Lassen Dairy dba Meritage Dairy, 07-RC-4-VI**

On September 4, 2007 UFCW International Union, Local 5 filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees of Lassen Dairy dba Meritage Dairy. The employer is a dairy located in Bakersfield with approximately 25 employees. An election was held on September 11, 2007 with the following results:

UFCW	17
No Union	15
Unresolved Challenged Ballots	<u>6</u>
Total	38

As the unresolved challenged ballots are outcome determinative, the Regional Director will proceed to investigate and issue a report on the six (6) unresolved challenged ballots. On September 18, 2007 the employer filed objections to the election. The union did not file any objections. The investigation of unresolved challenged ballots is ongoing and the regional director may have a partial resolution by next week.

**COMPLAINT REPORTS**

**NEW COMPLAINTS ISSUED:**

None.

**PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED**

**Aukeman Farms, 06-CE-35-VI**

Prehearing October 25, 2007

Hearing set for November 27, 2007

**Pacific Coast Mushrooms, 06-CE-1-SAL**

Prehearing October 18, 2007

Hearing set for December 10, 2007

**C. Mondavi & Sons dba Charles Krug, 06-CE-40-SAL**

Prehearing January 11, 2008

Hearing set for February 19, 2008

**HEARINGS HELD:**

None.

**TWO CASES ON CALENDAR:**

**Aukeman Farms, 06-CE-35-VI**

Prehearing October 25, 2007

Hearing set for November 27, 2007

**Pacific Coast Mushrooms, 06-CE-1-SAL**

Prehearing October 18, 2007

Hearing set for December 10, 2007

**C. Mondavi & Sons dba Charles Krug, 06-CE-40-SAL**

Prehearing January 11, 2008

Hearing set for February 19, 2008

**CASES PENDING ALJ/IHE DECISION:**

**Jim Nace Dairy, 07-RD-3-VI**

Hearing: August 20, 2007

**Vincent B. Zaninovich & Sons, 06-CE-62-VI**

Hearing closed October 2, 2007

Pending receipt of transcripts and parties post-hearing briefs

**ALJ/IHE DECISIONS ISSUED:**

**Aukeman Farms, 06-CE-35-VI**

ALJ issued an order granting General Counsel's motion for order finding allegations of backpay specification to be true. The request for review was due September 20, 2007. None was filed.

**CASES PENDING EXCEPTIONS OR REPLY:**

None.

**CASES PENDING BOARD DECISION:**

**Artesia Dairy, 06-RC-01-VI** (33 ALRB No. 3), Technical Refusal to Bargain

Briefs following Stipulated Record due October 29, 2007

Reply briefs due November 13, 2007

**CASES PENDING SETTLEMENT:**

None.

**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:**

None.

**COURT LITIGATION**

None.

**6. Special:**

Legislation (Senior Board Counsel Wender) -

SB 180 (Migden)-Labor Representatives: Elections

This bill, as amended on April 9, would amend the Agricultural Labor Relations Act (Lab. Code § 1140, et seq.) to (1) provide for a card check system in which, in lieu of a secret ballot election, agricultural employees may choose an exclusive bargaining representative by submitting to the ALRB authorization cards signed by a majority of the employees in the bargaining unit; (2) create penalties, under specified circumstances, for the commission of unfair labor practices; and (3) expand the categories of unfair labor practice allegations that require the ALRB, upon determination that a complaint should issue, to petition the Superior Court for preliminary injunctive relief. On April 17, 2007, the bill was withdrawn from committee and re-referred to the Committee on Rules. On April 19, 2007, the bill re-

referred to the Committee on Labor & Industrial Relations and the Committee on Rules and set for hearing on April 25, 2007. On April 30, 2007, the bill was passed out of the Committee on Labor & Industrial Relations (3-2 vote) as amended, but first to be amended and re-referred to the Committee on Rules. The bill was amended on May 1, 2007 to eliminate the proposed provisions that would have provided for liquidated damages for specified ULPs and would have set a minimum bargaining makewhole award. On May 3, the bill was re-referred to the Committee on Appropriations. On May 14, the bill was heard in committee and passed as amended by a 10-6 vote. On May 17, the bill was amended to extend the time periods for Board evaluation of the petition and for the Employer response. On May 21, the bill passed the Senate by a 24-15 vote and was read the first time in the Assembly. On June 4, the bill was referred to the Labor & Employment Committee.

SB 180 was amended on June 7, 2007. The substantive amendments provide that 1) the person witnessing the signature sign a statement (to be contained on the card), under penalty of perjury, that he or she witnessed the signing and that to the best of their knowledge, information, and belief the employee was not intimidated, threatened, or coerced in any way or paid in exchange for signing the card; 2) the Board shall maintain the confidentiality of the card in the same manner as ballots cast in a regular election; 3) the Board will have 5 days to evaluate the sufficiency of the cards, and that this administrative determination is not reviewable; 4) if the Board determines that the showing is insufficient, it shall return the invalid cards with an explanation of their deficiencies, and allow the labor organization 30 days to submit additional cards; 5) once a labor organization files a majority sign up petition no other such petitions regarding the same employer shall be considered by the Board until it determines whether or not to certify the labor organization filing the first petition.

On June 13, the bill passed out of the Labor & Employment Comm. and was re-referred to the Comm. on Approps. The bill passed out of committee on June 27, but a 11-5 vote. On July 12, the bill passed the Assembly and was sent back to the Senate. On August 27, the Senate concurred in the Assembly amendments. On September 5, the bill was sent to the Governor

The Labor and Workforce Development Agency has taken a position on this bill. The Agricultural Labor Relations Board has historically not taken positions on legislation and does not take a position on this bill. The Board will provide analysis upon request. The Labor and Workforce Development Agency requested and was provided an analysis of this bill.

SB 180 was vetoed on October 14, 2007.

#### SB 650 (Migden) Labor Representatives: Elections.

This bill, the product of a "gut and amend" in the Assembly on September 6, is identical to SB 180, but has a sunset date of January 1, 2013. The bill passed the

Assembly on September 10, and the Senate concurred in the amendments on September 12. The bill was sent to the Governor on September 20.

SB 650 was vetoed on October 14, 2007.

AB 309 (Tran)-State boards and commissions: salaries: suspension.

This bill would specify that members appointed to specified state boards and commissions shall receive no salary for the 2007-08, 2008-09, and 2009-10 fiscal years, except that they may receive a per diem payment set pursuant to these provisions during that time. On April 12, the bill was amended to drop from the specified list of affected boards and commissions the Board of Prison Terms, the Narcotic Addict Evaluation Authority, and the Youth Authority Board. On April 16, 2007, the bill was referred to the Committee on Business and Professions. On April 17, the bill failed passage in the committee. Reconsideration was granted, but there has been no subsequent action on the bill.

**Request for Referral of Record in Henry A. Garcia, Case No. 07-RC-01-VI**

On September 24, 2007 David A. Rosenfeld sent the Executive Secretary a renewed request to refer the record in Henry A. Garcia Dairy, Case No. 07-RC-01-VI, to EDD for investigation of possible fraud. A draft response will be prepared and circulated to the Board

**Case Statistics Tracking System and Web Site Updates**-Member Shiroma and Analyst Massie reported meeting with the project consultant on the progress of the case statistic tracking system and the web redesign project.

**7. Personnel** – An interview was conducted for the Board Counsel position.

**8. Roundtable** –

The next Board Meetings will be November 7 and December 11.

The public meeting adjourned at 11:40 a.m.

**WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION.**