

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

April 16, 2008

Time: 10:00 a.m.
Members Present: Chairman Almaraz, Members Shiroma and Rivera-Hernandez
Staff Present: Executive Secretary Barbosa, Board Counsel Wender, Heyck and
Robinson, Analyst Massie and General Counsel Lee, Assistant
General Counsel Blanco
Others Present: Patrick Henning, Director-EDD; Pam Harris, Chief Deputy Director-
EDD

OPEN SESSION

1. **Approval of Minutes:** The Board minutes for April 2, 2008, were approved 3-0 with minor changes.
2. **Public Comments:** None.
3. **Chairman Report** – Chairman Almaraz reported on the Labor and Workforce Development Agency meeting. Chairman Almaraz and General Counsel Lee attended the workforce planning conference.
4. **General Counsel Report:** Six new charges were filed in the Visalia Regional Office and five new charges were filed in the Salinas Regional Office. A new representation petition was filed yesterday in Visalia.
5. **Executive Officer Report:**

ELECTION REPORT:

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

Two (2) new NAs have been filed with the Regional Offices: South Lakes Dairy Farm (UFW) and Genasci Ranch (UFCW).

One new NO has been filed: Genasci Ranch (UFCW)

A new representation petition was filed this week.

PENDING ELECTION MATTERS:

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

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 charges (07-CE-23-SAL, 07-CE-25-SAL and 07-CE-26-SAL. On October 18, 2007 the UFW filed a request for review of three of the four charges. On November 16, 2008 the General Counsel affirmed the Regional Director’s dismissal of the three charges.). On February 5, 2008 the Salinas Regional Director and Employer reached an informal settlement agreement resolving the allegations of the remaining charge, 07-CE-24-SAL. The UFW filed a request for review of the agreement. The request for review was denied by the General Counsel on March 10, 2008. The matter is now pending a ruling by the Executive Secretary on the union’s election objections.

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:

United Food and Commercial Workers	17
No Union	15
Unresolved Challenged Ballots	<u>6</u>
Total	38

As the unresolved challenged ballots were outcome determinative, the Regional Director investigated the challenges and issued his report on challenged ballots on November 9, 2007. The Employer filed exceptions to that report on November 19,

2007. The Board issued its decision on challenged ballots on February 15, 2008. A hearing on the three (3) challenged ballots was held on March 18, 2008. The matter is pending the IHE's decision. The Employer also filed objections to the election on September 18, 2007 that are pending before the Executive Secretary for decision. A ruling on the objections will follow as soon as all the challenged ballot issues are fully resolved and a revised tally of ballots has issued.

Mayflower Companies et al., 07-RC-7-VI

On December 7, 2007 UFCW International Union, Local 5 filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees of Mayflower Companies et al. The employer is a dairy located in Pixley with approximately 31 employees. The election was held on Friday, December 14, 2007 with the following tally:

United Food and Commercial Workers	11
No Union	20
Unresolved Challenged Ballots	<u>1</u>
Total	32

The UFCW filed objections on December 12, 2007. The objections are being held in abeyance pending investigation of overlapping ULPs. On February 4, 2008 the employer filed a motion to dismiss the objections alleging the union had neglected to serve the employer's legal representative. The UFCW filed a reply to the motion on February 12, 2008. On February 15, 2008 the acting ES denied the motion to dismiss. The request for review was filed February 28, 2008. On March 7, 2008 the Board denied the employer's request for review. The matter is now pending resolution of the overlapping ULP's.

Ronald Vander Kooi, 08-RC-001-VIS

On Friday, March 28th the UFCW, Local 5, filed a representation petition with the Visalia Regional Office seeking to organize the agricultural employees of Ronald Vander Kooi. The employer is a dairy in Visalia, CA. with approximately 15 employees. An election was held on April 4, 2008 with the following results:

UFCW, Local 5	9
No Union	0
Unresolved Challenged Ballots	<u>1</u>
Total	10

As neither party filed objections to the election, the Executive Secretary issued a certification of representative on April 14, 2008. This matter is now fully resolved and will be removed from this report.

L.E. Cooke Company, 08-RD-001-VIS

Agricultural employee Fabian Betanzos filed a decertification petition with the Visalia Regional Office seeking to decertify the incumbent representative, UFW, at L.E. Cooke Company. The employer is a bare tree nursery in Visalia with approximately 136 employees. An election was held on April 9, 2008 with the following results:

United Farmworkers	53
No Union	57
Unresolved Challenged Ballots	<u>12</u>
Total	122

The number of unresolved challenged ballots is sufficient to affect the outcome of the election. The Visalia Regional Director will investigate the challenges and issue a report to the Board. Election objections, if any, are due April 16, 2008.

Genasci Ranch, 08-RC-002-VIS

On April 11, 2008 UFCW Local 5 filed a representation petition with the Visalia Regional Office seeking to organize the agricultural employees of Genasci Ranch. The employer is a dairy in Modesto, CA. with approximately 15 employees. The union has met the showing of interest and a pre-election conference is scheduled for April 16, 2008 at 10:00 AM. An election will be held on Friday, April 18, 2008.

Rocking S. Dairies, 07-UC-01-VI

UFCW Local 5 filed a unit clarification petition seeking to clarify the bargaining unit designated in its certification of July 23, 2007 to now include the employees of The Oaks Ranch. The union alleges that The Oaks Ranch is a single employer with Rocking S. Dairies. The matter is under investigation by the Visalia Regional Director and is pending a report on the unit clarification.

COMPLAINT REPORT

COMPLAINTS ISSUED

No new complaints have issued.

PREHEARING, HEARING OR SETTLEMENT CONFERENCES SCHEDULED

Santa Rosa Berry Farms, 07-CE-22-VI

Prehearing April 29, 2008

Hearing May 20, 2008

The Hess Collection Winery. 99-CE-23-SAL

Prehearing July 22, 2008

Hearing August 26, 2008

Kirschenman Enterprises, 06-CE-78-VI
Prehearing September 4, 2008 (to be set)
Hearing October 20, 2008 (to be set)

HEARINGS HELD:

None.

CASES PENDING ALJ/IHE DECISION:

Lassen Dairy dba Meritage Dairy, 07-RC-4-VI
Hearing held March 18, 2008. Post-hearing briefs have been waived.

ALJ/IHE DECISIONS ISSUED:

None.

CASES PENDING EXCEPTIONS OR REPLY:

Aukeman Farms, 06-CE-35-VI
Exceptions filed April 4, 2008
Reply briefs are due April 21, 2008
General Counsel filed motion to amend backpay specification on April 14, 2008

CASES PENDING BOARD DECISION:

Vincent B. Zaninovich & Sons, 06-CE-62-VI
Aukeman Farms, 06-CE-35-VI

CASES PENDING SETTLEMENT:

None.

CASES SETTLED OR RESOLVED:

C. Mondavi & Sons dba Charles Krug, 06-CE-40-SAL
On April 4, 2008 the Executive Secretary granted the General Counsel's motion to take this matter off calendar as the parties had agreed to a private party settlement. This matter is now resolved and will be removed from this report.

Grimaud Farms of California, 07-CE-13-VI

Parties reached an informal bilateral settlement agreement resolving the allegations in the charge. The Charging Party waived reinstatement in consideration of a \$5,900 payment.

COMPLIANCE CASES CLOSED:

None.

CASES TRANSFERRED TO BOARD FOR DECISION:

Aukeman Farms, 06-CE-35-VI

This case was transferred to the Board on April 7, 2008.

BOARD DECISIONS:

None.

REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION LAW:

None.

COURT LITIGATION

Artesia Dairy (33 ALRB No. 6)

Petition for review filed January 25, 2008. ALRB filed certified record on January 7, 2008. Petitioner's opening brief was filed March 13, 2008. The Board's response brief was mailed April 15, 2008. The petitioner's reply brief is due in 25 days (May 12, 2008).

6. Special Projects

- (a) Information Technology Update/Case Tracking System—Member Shiroma reported on the April 4th meeting. Regional time tracking categories will be finalized at the next meeting on April 25th. The New numbering system has been implemented. Administrative Assistant Sakauye has identified 4,700 files that need to be verified. Legal Secretary Barr will assist in the verification process. Work continues on compliance forms. Revisions to the proposed inventory manual will be discussed at the next project meeting. Member Shiroma plans to present a proposal at the next Board meeting regarding future projects.
- (b) EDD Program & Services: Director Henning and Chief Deputy Director Harris described the programs and services offered by the Employment Development Department. Annual cross training of agency staff was suggested and well as participation in joint outreach efforts. Chairman Henning indicated outreach workers could distribute the ALRB outreach fact sheet should workers need information regarding the ALRB. Assistant General Counsel Blanco discussed expanding the ALRB's current database searches. Chairman Henning offered the ALRB assistance with temporary placement of personnel.
- (c) Annual Report—Member Shiroma offered to proof the annual report draft circulated on April 11 in preparation for its final release.

7. Legislation:

AB 2539 (Strickland)—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 2008-09, 2009-10 and 2010-11 fiscal years, except that they may receive a per diem payment of \$100. The bill is essentially identical to AB 309, which died on January 31, 2008, pursuant to Art. IV, Sec. 10(c) of the Constitution (failure to meet deadline for passage by house of origin). On March 10, the bill was amended to eliminate the list of affected boards and commissions and instead provide that the bill would prohibit a member of a state board or commission from receiving any salary if (1) in 2007 or later, the position of the member on the state board or commission received or would receive a salary totaling at least \$100,000 per year, and (2) the members of the state board or commission are required, either by statute or regulation, to meet 2 or less times per month, whichever is greater. This bill would authorize a member of a state board or commission who is prohibited from receiving a salary under these provisions to receive a per diem payment of \$100. The bill was re-referred to the Committee on Business and Professions on March 11, 2008. On April 15, 2008, the bill failed passage in committee.

AB 1869 (Anderson) State boards and commissions; reorganization.

Existing law establishes various boards and commissions in state government. This bill would declare the intent of the Legislature to effect the changes proposed by the California Performance Review (CPR) to eliminate and consolidate various state boards and commissions. The April 3 amendments added specific language regarding the abolishment and/or consolidation of various boards and commissions. The new language does not mention the ALRB. However, the bill would abolish the Unemployment Insurance Appeals Board, the California Occupational Safety and Health Appeals board, and the Workers' Compensation Appeals Board and transfer their duties to the Labor and Workforce Development Agency. The bill would repeal the authority of the Industrial Welfare Commission to set the minimum wage and would abolish that commission and transfer its remaining duties to the Labor and Workforce Development Agency. On April 15 the bill failed passage in committee.

AB 2386 (Nunez) Agricultural employees: elections of labor representatives. As originally introduced, this bill would have made technical, nonsubstantive changes to section 1156.3 of the ALRA, which governs the filing of election petitions. As amended on April 2, the prior language has been deleted and it now makes nonsubstantive changes to the AERF provisions in the ALRA and requires that the status of AERF be included in the annual report (in place of language that had required a single report in 2002). The bill passed the Labor & Employment Committee on April 10 and was re-referred to the Committee on Appropriations.

8. Personnel – Nothing new.

9. Roundtable –

California Women for Agriculture’s Annual Legislative Reception is scheduled for 5:30 p.m. on May 20, 2008, at Spataro Restaurant, 1415 L Street, Sacramento.

The Executive Secretary’s office has been contacted by two different organizations representing international visitors who want to learn about agricultural labor relations. The first is a Polish delegation (1 person with an interpreter) and a second Korean delegation consisting of approximately 40 students who either own farms or have business relationships with farms. Arrangements have been made to meet with both groups.

The ALRB’s Senate Subcommittee No. 2 budget prehearing is scheduled for April 22, 2008. The hearing is scheduled for April 28, 2008.

Genevieve Shiroma, Joe Wender and J. Antonio Barbosa received certificates of appreciation for the 2007 California State Employees’ Food Drive.

The Board approved continuation of membership in the Association of Labor Agencies for the period June 1, 2008 through May 31, 2009.

The next Board meeting will be held on Thursday, May 8, 2008.

The public meeting adjourned at 12:55 p.m.