

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**BOARD MEETING MINUTES**

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

**May 8, 2008**

Time: 10:20 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

**OPEN SESSION**

1. **Approval of Minutes:** The Board minutes for April 16, 2008 were approved 3-0.
2. **Public Comments:** None.
3. **Chairman Report:** The Senate Rules Committee on a 3-0 vote with two abstentions confirmed Chairman Almaraz and Board Member Rivera-Hernandez. Both Chairman Almaraz and Member Rivera-Hernandez expressed appreciation for all the work performed by staff surrounding their confirmation hearing.
4. **General Counsel Report:** General Counsel Lee reported 22 new charges have been filed in the regional offices since our last meeting. The Visalia Regional Office has effectuated an informal settlement in Yagi Bros. Produce, 07-CE-01-VI, et al
5. **Executive Officer Report:**

**ELECTION REPORT:**

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

**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:

UFCW	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. On April 22, 2008, the Investigative Hearing Examiner (IHE) issued his decision in this matter. Exceptions are due May 5, 2008. No exceptions were filed and the Executive Secretary issued his order making the IHE decision final and directing the Regional Director to open and count three challenged ballots and issue a final tally of ballots. A ruling on the objections will follow as soon as a final tally 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:

UFCW	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 ULPs. The Regional Director anticipates meeting on the overlapping ULPs next week with a resolution to follow soon.

**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:

UFW	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. On April 21, 2008 the Executive Secretary received an objections petition from the UFW. The election objections will be screened as soon as the outcome determinative challenges are resolved.

**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 15 employees. An election was held on April 18, 2008 with the following results:

No Union	8
UFCW Local 5	6
Unresolved Challenged Ballots	0
Void Ballot	<u>1</u>
Total Voters	15

Election objections were due April 25, 2008. No objections were filed. The Executive Secretary issued his order certifying the results of the election on April 29, 2008. The matter is now fully resolved and will be removed from this report.

**Heritage Dairy, 08-RC-003-VIS**

On April 16, 2008 the UFCW Local 5 filed a representation petition with the Visalia Regional Office seeking to organize the agricultural employees of Heritage Dairy. The employer is a dairy with 18 employees that is located in Tulare, CA. An election was held on April 23, 2008 with the following results:

No Union	11
UFCW Local 5	2
Unresolved Challenged Ballots	<u>5</u>
Total Voters	18

The number of unresolved challenged ballots is insufficient to affect the outcome of the election. Election objections were due April 30, 2008. No objections were filed. The Executive Secretary issued his order certifying the results of the election on May 1, 2008. The matter is now fully resolved and will be removed from this report.

**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 held April 29, 2008

Hearing scheduled 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 scheduled September 18, 2008  
Hearing scheduled October 20, 2008

**HEARINGS HELD:**

None.

**CASES PENDING ALJ/IHE DECISION:**

None.

**ALJ/IHE DECISIONS ISSUED:**

**Lassen Dairy dba Meritage Dairy, 07-RC-4-VI**  
Decision issued April 22, 2008  
No Exceptions filed.

**CASES PENDING EXCEPTIONS OR REPLY:**

None.

**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:**

None.

**COMPLIANCE CASES CLOSED:**

None.

## **CASES TRANSFERRED TO BOARD FOR DECISION:**

### **BOARD DECISIONS:**

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

Exceptions filed April 4, 2008

Reply briefs are due April 21, 2008. None filed.

General Counsel filed motion to amend backpay specification on April 14, 2008

Response to Motion to Amend received April 28, 2008

Admin. Order issued May 6, 2008

### **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 filed April 16, 2008. The Real Party in Interest filed their brief on April 17, 2008. The petitioner's reply brief is due May 12, 2008.

## **6. Special Projects:**

- (a) Information Technology Update/Case Tracking System: The next committee meeting is scheduled for May 16. Time tracking was discussed extensively at the last meeting and several decisions were reached. The regional office and headquarters inventory reference manuals should be ready for approval at the next committee meeting. AA Sakauye continues the process of verifying data in the database. California has launched its official video channel at YouTube. The channel serves as the "parent" channel for the State, featuring video playlists from departments and agencies. Member Shiroma will present proposals at the next Board meeting regarding placing ALRB videos on the State YouTube site, and refining the databases and website.
- (b) Financial Integrity and State Managers Accountability Act (FISMA): Member Rivera-Hernandez will follow up with EDD Director Henning and Deputy Director Harris on sample manuals covering accounting, personnel and business services.
- (c) Annual Report: The ALRB Report to the Legislature covering fiscal years 2005-06 and 2006-07 issued on April 22. A target date of August 31 has been set for issuance of the next annual report.

Dymally-Alatorre Bilingual Services Act: Effective January 1, 2008, Assembly Bill 67 amended the Dymally-Alatorre Bilingual Services Act to allow for an

exemption from participation in the survey for up to ten years if state agencies either (a) do not have the responsibility to provide information or services to the public or (b) have such limited public contact that that they are not required to employ bilingual staff and have fewer than 25 full-time employees in public contact positions. The bill also changes the due dates for the survey and implementation plan. Exemption requirements were discussed due to minimal staff resources.

## **7. Legislation:**

### **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. The bill passed the Committee on Appropriations on April 24 and was read a second time on April 28.

## **8. Roundtable –**

The Department of General Services approved our application for purchasing authority. Our purchasing authority is in effect for a term of one year from May 1, 2008 to April 30, 2009.

The public meeting adjourned at 11:30 a.m.

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