

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

June 11, 2008

Time: 1:00 p.m.
Members Present: Chairman Almaraz, Members Shiroma and Rivera-Hernandez
Staff Present: Executive Secretary Barbosa, Board Counsel Wender, Heyck and
Robinson, General Counsel Lee
Staff Absent: Analyst Massie
Public Present: Glenda Villalta, United Food and Commercial Workers Union,
Local 5

OPEN SESSION

- 1. Approval of Minutes:** The Board minutes for May 21, 2008 were approved 3-0.
- 2. Public Comments:** On behalf of the United Food and Commercial Workers Union, Local 5, Ms. Villalta thanked the Board members for their work.
- 3. Chairman Report:** Chairman Almaraz reported that he and Board Member Rivera Hernandez had been confirmed by the full Senate on June 6, 2008. Mr. Almaraz also reported that the Labor and Workforce Development Agency (LWDA) had approved in part and rejected in part the ALRB's budget change proposal (BCP) for Fiscal Year (2009/10). Mr. Almaraz suggested a committee be formed to complete the BCP.
- 4. General Counsel Report:** General Counsel Lee reported that 40 Unfair Labor Practice (ULP) charges have been filed since May 21, 2008. The majority of these charges were filed in the Salinas region. A new decertification petition was filed on June 11, 2008 at Vista Vineyards Management (see below). Mr. Lee also reported that a job announcement for field examiners in both regional offices was just posted.
- 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. On June 6, 2008, the Executive Secretary issued his order on election objections in Gallo Vineyards, Inc., 07-RD-1-SAL. He set one objection for hearing and dismissed the rest. The request for review of this ruling is due June 16, 2008. The hearing on the sole objection has been set for August 26, 2008.

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. No exceptions were filed and the Executive Secretary issued his order making the IHE decision final on May 12, 2008. On May 13, 2008 the Regional Director opened and counted the three challenged ballots and issued an amended tally with the following results:

UFCW	17
No Union	18
Unresolved Challenged Ballots	<u>2</u>
Total	37

Since the two remaining challenged ballots are outcome determinative and are dependent on the processing of ulp charges involving the two affected workers, the Executive Secretary has requested that the investigation of charges pertaining to Juan Alberto Tostado and Jose Antonio Barbosa Tostado be expedited so that a final tally can be obtained. 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
UCB's	<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
UCB's	<u>12</u>
Total	122

The number of unresolved challenged ballots is sufficient to affect the outcome of the election. On June 2, 2008 the Visalia Regional Director issued his report on challenged ballots in LE Cooke Company. Of the 12 challenges lodged, the Regional Director recommended that 9 challenges be overruled and the ballots opened and counted and that 3 ballots be held in abeyance to be set for hearing should the ballots be outcome determinative after a revised tally of ballots issues. The request for review, if any, is due within five (5) days on June 12, 2008. Review of the election objections will follow the issuance of a final tally.

Lourenco Dairy Farm, 2008-RC-004-VIS

On June 6, 2008 the UFCW Local 5 filed a representation petition with the Visalia Regional Office seeking to organize the agricultural employees of Lourenco Dairy Farm. The employer is a dairy located in Tulare with approximately 18 employees. The pre-election conference is scheduled for June 11, 2008 with the election to follow on Friday, June 13, 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. On May 19, 2008 the Regional Director set this matter for hearing on July 28, 2008.

Vista Vineyard Management, LLC, 2008-RD-001-SAL

Agricultural employee Cecilio Samario filed a decertification petition with the Visalia Regional Office on June 11, 2008 seeking to decertify the incumbent representative, UFW, at Vista Vineyard Management, LLC. The employer is a wine grape grower in St. Helena with approximately 65 employees. An election, if appropriate, would be held on or about June 18, 2008.

COMPLAINT REPORT

COMPLAINTS ISSUED

Three new complaints have issued.

The Hess Collection Winery, Case No. 07-CE-54-SAL

Complaint issued May 23, 2008

Northstar Dairy, Case No. 07-CE-38-VI

Complaint issued May 23, 2008

Mushrooms Farms, 07-CE-34-SAL

Complaint issued May 23, 2008

Wolf Farming Co. of CA, 06-CE-28-VI

On June 2, 2008, the General Counsel issued an order consolidating the compliance proceedings with the unfair labor practice proceeding.

First Amended Back Pay Specification June 6, 2008

Prehearing scheduled June 17, 2008

Hearing scheduled July 21, 2008

PREHEARING, HEARING OR SETTLEMENT CONFERENCES SCHEDULED

Wolf Farming Co. of CA, 06-CE-28-VI

Prehearing scheduled June 17, 2008

Hearing scheduled July 21, 2008

On June 2, 2008, the General Counsel issued an order consolidating the compliance proceedings with the unfair labor practice proceeding.

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

Prehearing scheduled June 23, 2008

Hearing scheduled July 28, 2008

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

Prehearing July 29, 2008

Hearing August 26, 2008

J. Lohr Vineyards, Inc., 07-CE-1-SAL

Prehearing scheduled August 5, 2008

Hearing scheduled September 23, 2008

Kirschenman Enterprises, 06-CE-78-VI

Prehearing scheduled September 11, 2008

Hearing scheduled October 20, 2008

HEARINGS HELD:

None.

CASES PENDING ALJ/IHE DECISION:

None.

ALJ/IHE DECISIONS ISSUED:

None.

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:

The Hess Collection Winery, Case No. 07-CE-54-SAL et al.

On June 3, 2008 the General Counsel and The Hess Collection Winery agreed to settle the recently issued complaint in Case No. 07-CE-54-SAL et al. The complaint issued on May 23, 2008 and alleged that the employer, in direct response to various ulp charges filed by Hess employees, filed grievances under the expired McKay contract (contract found pursuant to MMC process) against the charging parties, pursued said alleged invalid grievances against the charging parties, threatened to file for binding mediation and arbitration with respect to these grievances, and threatened to impose arbitration costs on the charging parties as a result of these invalid grievances.

Braden Farms, Inc., 08-CE-13-VI

The General Counsel, California Rural Legal Assistance and the employer entered into an informal settlement agreement resolving the allegations of ulp charge 08-CE-13-VI.

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

The General Counsel and Respondent reached an informal settlement agreement resolving the allegations in the complaint. As part of this settlement, the Charging Party received a monetary award.

COMPLIANCE CASES CLOSED:

None.

CASES TRANSFERRED TO BOARD FOR DECISION:

BOARD DECISIONS:

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 was filed May 12, 2008. The matter is now pending court decision or setting of oral argument.

6. Special Projects

- (a) Information Technology Update/Case Tracking System: Board Member Shiroma reported that the ALRB's contract with M-CORP can be augmented to include some additional projects. All projects will be completed by September 30, 2008. Analyst Massie attended a meeting with state agency IT personnel who are coordinating the effort to link state agency information with YouTube. The Board discussed having the ALRB's informational video converted to DVD so it can be uploaded.
- (b) Financial Integrity and State Managers Accountability Act (FISMA): Board Member Rivera Hernandez reported that she had spoken to Frank Collins from EDD about getting assistance from EDD to create a policy manual for accounting personnel and business services.
- (c) End of the Year Expenditures: Accounting officer Davis circulated a spreadsheet to the Board detailing end of the year expenditures.

7. Legislation

SB 2386, which makes nonsubstantive changes to the AERF provisions in the ALRA and requires that the status of AERF be included in the annual report (the bill is suspected to be a spot bill for another try at card check legislation), passed the Assembly on May 27, 2008 and was assigned to the Senate committee on Labor and

Industrial Relations on June 5, 2008. A hearing is scheduled for June 26, 2008. All deficiencies must be addressed by July 31, 2008.

8. Roundtable –

Executive Secretary Barbosa will be on vacation June 16-27, 2008. Board Counsel Joe Wender will be serving as Acting ES.

The Native American Heritage Commission invited the ALRB to the Annual California Native American Day which is on September 26, 2008 at the State Capitol.

The ALRB received an inquiry from Les Chisholm of Public Employees Relations Board (PERB) regarding co-sponsorship of the 2009 Center for Collaborative Solutions conference.

The July Board meeting dates will be July 8, 2008 and July 23, 2008 at 10:00 a.m.

The public meeting adjourned at 2:30 p.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION.