

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

June 25, 2008

Time: 10:00 a.m.
Members Present: Chairman Almaraz, Members Shiroma and Rivera-Hernandez
Staff Present: Board Counsel Wender, Heyck and Robinson; General Counsel Lee
Staff Absent: Executive Secretary Barbosa, Analyst Massie
Public Present: Freddy Sanchez, UFCW, Local 101

OPEN SESSION

- 1. Approval of Minutes:** The Board minutes for June 11, 2008 were approved 3-0.
- 2. Public Comments:** None.
- 3. Chairman Report:** Chairman Almaraz reported that the first United Way campaign meeting for this year is Tuesday, July 1, 2008. He also reported that the Labor and Workforce Development Agency (LWDA) had approved a portion of the ALRB's Budget Change Proposal (BCP), and the ALRB's BCP committee met on June 24, 2008 to complete the BCP which is due at the end of July.
- 4. General Counsel Report:** General Counsel Lee reported that 19 new ULP charges had been filed since the last Board meeting on June 11, 2008. Mr. Lee also reported that he had attended the LWDA's chief counsels' meeting last week.
- 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 UFW has filed a request for review of the partial dismissal and the case has been transferred to the Board. The hearing on the sole objection, originally set for August 26, 2008, has been continued to September 9, 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. **No request for review was filed; therefore the ES issued an order making the report final and directing the RD to issue an amended or final tally, as appropriate.** 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 was held today June 11, 2008. The election will be held on June 13, 2008 from 3:30 am to 7:30 am. An election was held on June 13, 2008 with the following results:

UFCW	11
No Union	4
UCBs	<u>0</u>
Total	15

Election objections are due June 20, 2008. None have been received thus far.

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 approximately 65 employees. The election was held on June 18, 2008. The Regional Director impounded the ballots due to pending related unfair labor practice charges.

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 for July 28, 2008. On June 10, 2008, the Respondent requested a continuance of the hearing form July 28, 2008. The motion was referred to the ALJ, who granted the motion and issued an order setting the hearing for Sept. 3, 2008.

COMPLAINT REPORT

COMPLAINTS ISSUED

None.

**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 August 15, 2008

Hearing scheduled Sept. 3, 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 18, 2008

Hearing scheduled October 20, 2008

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

Hearing scheduled Sept. 9, 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:

COMPLIANCE CASES CLOSED:

None.

CASES TRANSFERRED TO BOARD FOR DECISION:

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

Request for Review of Partial Dismissal of Election Objections

BOARD DECISIONS:

Aukeman Farms, 06-CE-35-VI (34 ALRB No. 2) issued on June 25, 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 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 next Time Tracking/Case Tracking meeting is Thursday, June 26, 2008. During the meeting Steve Guida of MCorp will demonstrate how to fill out the Region time tracking forms electronically. This system will be replicated for Board Counsel and ALJs next. He will also discuss how the data can be summarized for reports for management. All case tracking forms are completed and the ULP, election, and AERF data files are up to date. Data for complaints, Board actions, and compliance is now being reviewed. The website updates and the inventory tracking system are works in progress.

Ms. Shiroma reported that the MCorp contract was augmented to add the following items:

1. Consolidating Case Digest and Supplements on ALRB website
2. Linking our website to the California YouTube site to house ALRB DVD/videos (see www.youtube.com/californiagovernment)
3. Scanning/Converting PDF's on ALRB website to be ADA compliant
4. Convert ALRB forms into PDF's that can be filled out electronically online
5. Adding more report options beyond the number specified in the current contract
6. Adding a legal template feature for administrative orders, Board decisions, court briefs, etc.

(b) Financial Integrity and State Managers Accountability Act (FISMA): Board Member Rivera Hernandez reported that she had received some policy manuals from EDD and will review them to see if any of them will be helpful in creating ALRB policy manuals for accounting, personnel and business services.

7. Legislation

SB 2386, which is suspected to be a spot bill for card check legislation, was amended yesterday. As introduced, the bill made nonsubstantive changes to section 1156.3, which governs election petitions. As amended, 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 has passed the Assembly and is pending in the Senate Committee on Labor and Industrial Relations, where a hearing is set for June 25, 2008.

8. Personnel: None

9. Roundtable: The next Board meeting will be held on Tuesday July 8, 2008 at 1:00 p.m. instead of 10:00 a.m.

The public meeting adjourned at 11:05 a.m.