

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**BOARD MEETING MINUTES**

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

**January 5, 2011**

Time: 10:00 a.m.  
Members Present: Members Shiroma, Rivera-Hernandez and Migden  
General Counsel: General Counsel Michael Lee, Assistant General Counsel Blanco  
Staff Present: ALRB Executive Secretary Barbosa; Board Counsel Heyck, Robinson and Wender; ALJ Soble, Analyst Massie, Personnel Manager Kojima, Executive Secretary Johnson  
Others Present: Ben Ebbink, Chief Consultant, Assembly Committee on Labor and Employment; Employee Representatives of Nurserymen's Exchange

**OPEN SESSION**

1. **Approval of Minutes:** The Board minutes for December 15, 2010, were approved 2-0 with Member Migden abstaining.
2. **Public Comments:** Armando Lopez and Rosa Martinez on behalf of the employees of Nurserymen's Exchange expressed their continuing interest in their case and requested that a decision be made as soon as possible. Member Rivera-Hernandez thanked the employees for making the trip to Sacramento from Half Moon Bay and extended the Board's appreciation for their sharing their comments with the Board.
3. **Acting Chair's Report:** Board Member Willie Guerrero resigned on December 21, 2010. The Labor and Workforce Development Agency indicated a meeting is tentatively scheduled for Tuesday, January 11. There is also a meeting scheduled with Acting EDD Director Pam Harris and EDD staff along with ALRB staff on Tuesday, January 11, 2011.
4. **General Counsel Report:** A new compliance memo has been issued by General Counsel. Progress is being made on the tomato cases using the limited records available. Ace Tomato Company counsel advised the General Counsel that their client is willing to work out an agreement as to their client's liability. The UFW has

not yet responded to the offer to return to the table. The region continues work to establish which employees are entitled to makewhole.

## **5. Executive Officer Report:**

### **ELECTION REPORT**

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

No NA's or NO's filed during this reporting period.

#### **PENDING ELECTION MATTERS:**

##### **Kawahara Nursery, Inc., 2010-RC-001-SAL**

On January 12, 2010, the UFW filed a representation petition with the Salinas Regional Office seeking to represent the agricultural employees of Kawahara Nursery, Inc. The employer is a nursery located in Morgan Hill, San Lorenzo and Gilroy with 173 employees. An election was held on January 19, 2010, with the following results:

UFW	70
No Union	68
Unresolved Challenged Ballots	<u>28</u>
Total	166

The unresolved challenged ballots are outcome determinative and were investigated by the Salinas Regional Office. The UFW filed objections to the election on January 26, 2010. On March 29, 2010, the Regional Director issued his report on challenged ballots. The Employer filed exceptions to the Regional Director's report on April 9, 2010. On June 10, 2010, the Board issued its Decision and Order on challenged ballots setting various matters for hearing. Also on June 10, 2010, the Executive Secretary scheduled an investigative hearing for July 26, 2010. A pre-hearing conference was held on July 16, 2010. The hearing that was scheduled for July 26, 2010, was taken off calendar on July 23, 2010 for lack of a State budget. On September 9, 2010, the Executive Secretary scheduled a prehearing conference in this matter for September 16, 2010. On September 21, 2010, the investigative hearing examiner issued his prehearing report. At the hearing both parties objected to the use of videoconference technology to conduct this hearing. Both agree that such technology is not feasible as the hearing may involve up to twenty percipient witnesses. The investigative hearing was held December 13-17, 2010. The matter is pending receipt of the hearing transcripts and parties' post-hearing briefs.

**South Lakes Dairy Farm, 2010-RC-002-VIS**

On July 12, 2010, UFCW Union, Local 5, filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees of South Lakes Dairy Farm. The employer is a dairy located in Pixley CA with approximately 40 employees. An election was held on July 19, 2010, with the following results:

UFCW	23
No Union	26
Unresolved Challenged Ballots	<u>9</u>
Total	58

As the number of unresolved challenged ballots is sufficient to affect the outcome of the election, the Regional Director will investigate the challenges and issue his report on the challenged ballots. Objections to the election were due July 26, 2010. Neither party filed objections to the election. The Regional Director issued his report on challenged ballots on October 25, 2010. Exceptions to the report were filed November 4, 2010. The Board issued its decision on challenged ballots on December 17, 2011. Though an investigative hearing had been scheduled for February 1, 2011, the parties are discussing new hearing dates as there was a conflict with the original dates scheduled.

**Nurserymen's Exchange, Inc., 2010-RC-003-SAL**

On July 26, 2010, the UFW filed a representation petition with the Salinas Regional Office seeking to represent the agricultural employees of Nurseryman's Exchange, Inc. The employer is a nursery located in Half Moon Bay with approximately 200 employees. An election was held on August 2, 2010, with the following results:

UFW	3
No Union	58
Unresolved Challenged Ballots	<u>107</u>
Total	168

As the number of unresolved challenged ballots was sufficient to affect the outcome of the election, the Regional Director investigated the challenges. The Employer filed objections to the election on August 9, 2010. The Regional Director's report on challenged ballots issued October 7, 2010. Exceptions to the report were received November 17, 2010. The Board issued its decision on challenged ballots on December 17, 2010. The employer filed a motion for reconsideration on December 27, 2010. The matter is before the Board on review.

**D'Arrigo Bros. of California, 2010-RD-003-SAL**

On November 2, 2010, agricultural employee Alvaro Santos filed a decertification petition with the Salinas Regional Office seeking the ouster of the incumbent representative UFW at D'Arrigo Bros. of California. The employer is located in

Monterey and Imperial Counties and has 1,665 employees. An election was held on November 17, 2010, in Spreckles, Gonzalez and Calipatria, CA. The Regional Director impounded the ballots pending investigation of an unfair labor practice charge filed by the incumbent union UFW. The UFW filed objections to the election on November 24, 2010. The underlying charges are under investigation.

**Sun World, 2010-UC-1-VIS**

The UFW filed a unit clarification petition involving Sun World and a number of other entities on September 14, 2010. The employer requested and was granted an extension of time to file its response to the petition by November 12, 2010. The UFW was granted an extension through December 15, 2010, to respond to the region's request for information. The union's response was received on December 15, 2010. The matter is pending investigation and decision by the Regional Director.

**COMPLAINT REPORT**

**COMPLAINTS ISSUED**

None.

**PREHEARING, HEARING OR SETTLEMENT CONFERENCES SCHEDULED:**

None.

**HEARINGS SCHEDULED**

**South Lakes Dairy Farms, 2010-RC-002-VIS**

Hearing February 1, 2011(though parties are discussing new dates)

**Martin Hein Ranch Company, 2009-CE-021-VIS**

Prehearing conference January 18, 2011

Hearing February 10 & 11, 2011

**HEARINGS IN PROGRESS**

**CASES PENDING ALJ/IHE DECISION:**

**Kawahara Nursery, Inc., 2010-RC-001-SAL**

Hearing closed December 17, 2010

Pending receipt of transcripts and IHE decision

**ALJ/IHE DECISIONS ISSUED:**

None.

**CASES PENDING EXCEPTIONS OR REPLY:**

None.

**CASES PENDING BOARD DECISION OR ACTION:**

None.

**CASES SETTLED OR RESOLVED:**

**Grower's Choice, Inc., 2010-CE-032-VIS**

The parties reached an informal bilateral settlement agreement on December 17, 2010.

**COMPLIANCE CASES CLOSED:**

**CASES TRANSFERRED TO BOARD FOR DECISION:**

None.

**BOARD DECISIONS:**

None.

**REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION LAW:**

None.

**COURT LITIGATION:**

**MISCELLANEOUS:**

**6. Special Projects**

- a. Information Technology Committee: Update/Case Tracking System Policy – The committee met with Steve Guida on December 30, 2010. We are close to providing a work-flow document to the regions. Improvements have been made to the templates. A teleconference meeting with regions will be set in the near future to review the latest templates and work-flow documentation. An additional training exercise is planned regarding use of the templates.
- b. Policy Committee Report: Member Rivera-Hernandez made progress on standardizing forms.
- c. Compliance: Discussion of ideas for achieving more effective compliance with the Agricultural Labor Relations Act (ALRB) was postponed to allow time to brief Member Migden.
- d. Master Calendar: The Executive Secretary reported progress on reports due.

**7. Legislation** – Nothing new.

**8. Personnel** – Nothing new.

## **9. Roundtable**

Executive Secretary Barbosa will be attending the FI\$Cal Forum on January 26, 2011.

ISO Massie and CIO Barbosa are scheduled to attend an Office of Information Security Forum on January 7, 2011, to discuss annual security filing requirements and changes.

CIO Barbosa and Assistant CIO Massie will be attending the California Public Sector CIO Academy being held on February 14th and February 15th in Sacramento.

The public meeting adjourned at 10:58 a.m.

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