

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

June 20, 2012

Time: 10:00 a.m.
Members Present: Chairwoman Shiroma, Members Rivera-Hernandez and Mason
Staff Present: Executive Secretary Barbosa; Board Counsel Heyck, Robinson and Wender; and Analyst Massie

OPEN SESSION

1. **Approval of Minutes:** The Board minutes for June 6, 2012, were approved 3-0.
2. **Public Comments:** None.
3. **Chair's Report:** The Chairwoman will attend the Labor and Workforce Development Agency (LWDA or Agency) senior management meeting today at noon. Mr. Hau Cam started as ALRB's new accounting officer. Employment Development Department and Agency continue to help and mentor our new business services officer and accounting officer. Agency will continue to assist with budgeting until training is complete. The Chair and accounting officer will regularly brief the Board on expenditures.
4. **General Counsel's Report:** The General Counsel was unable to attend this meeting.
5. **Executive Officer Report:**

ELECTION REPORT

NOTICE OF INTENT TO TAKE ACCESS (NA)

Filing Date	Filing Party	Employer
06/12/12	UFW	T.T. Miyasaka, Inc.
06/18/12	UFW	George Amaral Ranches, Inc.

NOTICE OF INTENT TO ORGANIZE (NO)

Ten (10) NOs have been filed in the current fiscal year. All but one has met the 10% showing of interest.

Filing Date	Filing Party	Employer	10% Met
9/26/2011	Tmster Local 890	Eckhart Seed Company	Yes
3/13/2012	UFW	Montalvo Farms, LLC	Yes
3/21/2012	UFW	Catalinos Berry Farms, LLC	Yes
3/27/2012	UFW	Nakamura Sales Corporation aka J. Nakamura Berry Farms	Yes
4/3/2012	UFW	D.W. Berry Farms, LLC	Yes
4/4/2012	UFW	Premiere Raspberries, LLC dba Dutra Farms	Yes
4/10/2012	UFW	Rio Mesa Farms, LLC	Yes
4/12/2012	UFW	Santa Rosa Berry Farms, LLC	No
5/23/2012	UFW	Nakamura Sales Corporation	Yes
6/18/2012	UFW	George Amaral Ranches, Inc	Yes

PENDING ELECTION MATTERS:

D'Arrigo Bros. of California, 2010-RD-004-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. On February 24, 2011, the Salinas Regional Director issued a complaint against D'Arrigo Bros. alleging that, since October 27, 2010 and continuing, the employer initiated, participated in, aided, and/or gave support to the decertification campaign against the certified union UFW. On March 11, 2011, the Executive Secretary issued his order on the UFW's election objections. Any request for review was due March 21, 2011. Neither party filed a request for review. On March 15, 2011, the Executive Secretary consolidated the election objections and unfair labor practice complaint as each had the same or some of the same basis for the petition and complaint. A prehearing conference was held on May 27-28, 2011, and a

prehearing conference order issued on May 31, 2011. A hearing on the consolidated complaint and election objections commenced on June 13, 2011. The hearing resumed on July 11, 2011 and closed on September 7, 2011. The post-hearing briefs were filed January 23, 2011. On June 15, 2012 the ALJ issued his decision in this matter. Exceptions to that decision are currently due July 9, 2012. Reply briefs, if any, are due July 23, 2012. On June 15, 2012, the Respondent/Employer requested an extension of time to file the exceptions to the ALJ decision and also requested leave to file an exceptions brief not to exceed 120 pages. On June 20, 2012, the Executive Secretary granted both requests. The exceptions are now due on August 14, 2012. Reply briefs are due on August 27, 2012.

George Amaral Ranches, Inc., 2112-RC-001-SAL

On June 18, 2012 the UFW filed a representation petition with the Salinas ALRB Regional Office seeking to represent the agricultural employees of George Amaral Ranches, Inc. The company grows mixed leaf lettuce, red and green cabbage, celery, romaine, iceberg lettuce, broccoli, cauliflower, lollo bionda and red batavia, sweet corn, cantaloupe & watermelon. It has operations in Monterey, Santa Cruz and Santa Benito Counties and employs approximately 300 workers.

The Salinas Acting Regional Director has determined that a majority of the employees at George Amaral Ranches, Inc. were on strike at the time of the filing of the election petition and, accordingly, called for a 48-hour expedited election. The election is being held on two days, on June 19, 2012, from 5:30 p.m. to 8:00 p.m., at the Salinas Regional Office in Salinas and on June 20, 2012, from 5:00 a.m. to 9:00 a.m., at the company's operation in Chualar, CA.

COMPLAINT REPORT

COMPLAINTS ISSUED

None.

COMPLAINTS WITHDRAWN

Bayou Vista Farms West, et al., 2006-CE-009-VIS

On June 8, 2012, the Visalia Acting Regional Director withdrew the complaint in Sam and Carmen Knevelbaard dba Bayou Vista Farms West, et al.

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

THREE HEARINGS ARE SCHEDULED

H&R Gunland Ranches, Inc., 2009-CE-063-VIS, et al.

Pre-hearing conference held March 26, 2012

Telephone Conference Call to discuss discovery disputes has been scheduled for July 10, 2012 at 1 p.m.

Hearing August 27, 2012

Premiere Raspberries, LLC, 2012-CE-003-SAL

Pre-hearing conference August 28, 2012

Hearing September 11-24, 2012

Montalvo Farms, 2012-CE-004-SAL

Pre-hearing conference September 6, 2012

Hearing October 8-12, 2012

CASES PENDING ALJ/IHE DECISION

South Lakes Dairy Farms, 2009-CE-028-VIS

Hearing ended June 14, 2012. The matter is pending the receipt of transcripts and the filing of post-hearing briefs.

ALJ/IHE DECISIONS ISSUED:

D'Arrigo Bros. of California, 2010-RD-004-SAL

Decision issued June 15, 2012

CASES PENDING EXCEPTIONS OR REPLY/REQUEST FOR REVIEW:

D'Arrigo Bros. of California, 2010-RD-004-SAL

Exceptions originally due July 9, 2012; now due August 14, 2012

Reply originally due July 23, 2012; now due August 27, 2012

CASES PENDING BOARD DECISION OR ACTION:

None.

CASES SETTLED OR RESOLVED:

None.

COMPLIANCE CASES CLOSED:

None.

CASES TRANSFERRED TO BOARD FOR DECISION:

None.

BOARD DECISIONS:

None.

REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION LAW:

San Joaquin Tomato Growers, Inc., 2011-MMC-001

On November 17, 2011, the UFW filed a declaration requesting mandatory mediation and conciliation. On November 22, 2011, the employer filed its answer and opposition to the motion. On December 2, 2011, the Board issued an order to show cause why it should not dismiss the union's request for failure to show that the parties have not previously had a binding contract between them. The union's response was filed December 13, 2011. The employer's reply was filed December 21, 2011. On December 23, 2011, the Board issued its decision ordering an evidentiary hearing to determine if the Union's request for referral to MMC met all the statutory prerequisites. On December 27, 2011, the Executive Secretary scheduled an evidentiary hearing to be held on January 31, 2012 in Modesto CA. On January 18, 2012, the Executive Secretary's granted the Union's request to move the hearing to February 8, 2012. On January 25, 2012, the UFW filed a request for ruling on the pleadings. On January 26, 2012, the employer filed its opposition to that request. On January 27, 2012, the Board denied the UFW's request. The hearing on the MMC matter was held on February 8, 2012. Post-hearing briefs were received February 23, 2012. On March 19, 2012, the employer filed exceptions to the ALJ decision. Reply briefs are not provided for in the Board's regulations. On March 29, 2012, the Board granted the UFW's request for mandatory mediation and conciliation. (See 38 ALRB No. 2.) On April 3, 2012, the California State Mediation and Conciliation Service issued its list of nine mediators in accordance with Labor Code section 1164, subdivision (b). On April 10, 2012, the parties selected Matthew Goldberg as the mediator/arbitrator in this case. The Executive Secretary has not been advised of the meeting dates.

Ace Tomato Company, Inc., 2012-MMC-001

On March 14, 2012, the UFW filed a declaration requesting mandatory mediation and conciliation. The employer's response was received March 23, 2012. On March 29, 2012, the Board granted the UFW's request for mandatory mediation and conciliation. (See Admin. Order No. 2012-5.) On April 3, 2012, the California State Mediation and Conciliation Service issued its list of nine mediators in accordance with Labor Code section 1164, subdivision (b). On April 5, 2012, the parties selected Matthew Goldberg as the mediator/arbitrator in this case. The parties have met for approximately 31 sessions and are discussing potential dates for the submission of final proposals, responses to final proposals and mediator's decision.

COURT LITIGATION:

Premiere Raspberries LLC dba Dutra Farms, CV 173564

On April 11, 2012, the court granted the General Counsel's request for an injunction. The court ordered the reinstatement of agricultural employee Dalia Santiago and ordered the company to allow ALRB access to Respondent's employees. On April 17, 2012 the court denied Respondent's request for a stay of its order, finding that its order of April 13, 2012 remained in effect, notwithstanding the provisions of Cal. Code of Civil Procedure section 916 and Respondent's notice of appeal filed April 13, 2012. Dutra Farms has also filed a Request for Stay in the 6th DCA, claiming that section 1160.4(c) removing application of CCP 916's automatic stay provisions applies only to TROs and not to preliminary injunctions. On May 16, 2012, the Superior Court held Premier Raspberries in contempt for failing to comply with its earlier order requiring worker reinstatement and ALRB noticing of employees and supervisors while the company pursued its ultimately unsuccessful appeal. The Court imposed a fifteen hundred dollars fine on Premier Raspberries.

Montalvo Farms, Case No. 56-2012-00416985-CU-PT-VTA

On May 11, 2012, a Ventura County Superior Court Judge ruled in favor of a Montalvo Farms employee and ordered the employee be rehired. The employee returned to work on May 12th. ALRB staff provided Montalvo Farms workers and supervisors with information regarding rights afforded workers under the Agricultural Labor Relations Act.

MISCELLANEOUS:

Nothing to report.

6. Special Projects

- a. Information Technology Committee: Update/Case Tracking System—Nothing new on case tracking.
- b. Education/Outreach—UC Berkeley has developed questions for both the farmworker and employer community.
- c. Election Manual—Senior Board Counsel Wender continues his review of the election manual.
- d. Master Calendar—The Executive Secretary reported on the progress on reports due.

7. Regulations

Discussion of Potential Subjects for Rulemaking In 2012: Items listed in the Rulemaking Calendar (Unit Clarification Procedure, Voter Eligibility Exclusions (Family Members), Exculpatory Evidence, Electronic Filing). Responses to questions concerning electronic filing presented to the Ad Hoc Committee are expected shortly.

8. Legislation – Update, if any, on pending legislation affecting the ALRB AB 2676, as introduced, Committee on Labor and Employment. Unemployment insurance: use of information.

Under existing law, the information obtained in the administration of the Unemployment Insurance Law is for the exclusive use and information of the Director of Employment Development in the discharge of his or her duties and is not open to the public. However, existing law requires the director to permit the use of the specified information for specified purposes, and allows the director to require reimbursement for direct costs incurred. Existing law provides that a person who knowingly accesses, uses, or discloses this confidential information without authorization is guilty of a misdemeanor.

This bill would require the director to provide the Agricultural Labor Relations Board with information for use in the investigation or enforcement of the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act. By providing this information to the Agricultural Labor Relations Board, this bill would expand the crime related to the unauthorized disclosure of this information, and impose a state-mandated local program.

This bill was introduced on March 5, 2012. The bill passed the Assembly on May 29, 2012, and is before the Senate. A hearing has been set for June 27th before the Labor and Industrial Relations Committee.

9. Personnel – The Executive Secretary/Board will seek to replace the student assistant who recently left to accept a full-time position.

10. Roundtable – Nothing to report.

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

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION.