

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5503**

**1. Opening of Meeting:**

The Appeals Board convened at 10:30 p.m., March 10, 2009 in Sacramento, with Acting Chair Aguiar presiding.

**2. Roll Call: Members**

	<u>Present</u>	<u>Absent</u>
Fred Aguiar, Acting Chair	X	
Ann Richardson	X	
Liz Figueroa		X
Cindy Montañez	X	
Bonnie Garcia	X	
George Plescia	X	

**3. Approval of the Minutes:**

The February 10, 2009 minutes were approved, with the following amendment, by all members except Acting Chair Aguiar who was not in attendance at the February Board meeting.

On page 5, 3<sup>rd</sup> paragraph from the bottom, the correct percentage appeal rate to the Appeals Board is 10% rather than 14%.

**4. Chair's Report:**

No report.

**5. Board Member Reports:**

Member Garcia reported that the training for her and Member Plescia was completed and thanked the staff for their efforts. Member Garcia also stated that she was looking forward to visiting some of the field offices.

**6. Acting Executive Director Report:**

Acting Executive Director Jehan Flagg reported that she received a memorandum from the Department of Personnel Administration confirming that March 6 was the last furlough Friday for all State employees, and after March 6 everyone in the State is on a self-directed furlough of two days per month. The impact for CUIAB is almost negligible because most of the Agency has been operating on a self-directed furlough already. The DPA memorandum further states that once the

SEIU employees finish voting on the agreement reached with the Administration, it goes to the Legislature for ratification and then to the Governor for signature. The Governor made a statement to the media that if SEIU members approve the one day furlough he will likely not wait for the Legislature to act to implement it for SEIU staff. CUIAB is waiting to hear from the Governor's Office and/or DPA. Employees have through June 30, 2012 to use the furlough days they will have accrued. She stated that until the unions have all come to an agreement, they are asking employees to try and hold off from using furlough days. The concern is that the SEIU agreement might be retroactive, and if some employees have already used their second furlough days and don't have any other leave time on the books, they may end up owing CUIAB or the State money and/or time.

Acting Executive Director Flagg reported that the handout, CUIAB & EDD 2009 Action Plans for Improving Appeals Timeliness (Attachment A) was submitted the last week of February to U.S. Department of Labor. The Action Plan outlines several pages of suggestions, action items along with reasons for these actions, pros and cons and whether each is a long or medium range solution. Some of the actions have already been implemented and others are being researched or being tested with pilot programs.

Acting Executive Director Flagg also reported on AB 23, which deals with how EDD is going to spend the money it receives under the federal Stimulus Package, including provision for using the funds in connection with another UI extension.

Acting Executive Director Flagg, responding to a question raised by the Board previously, stated that any funds left in our budget at the end of the fiscal year, goes back to EDD and cannot thereafter be made available to CUIAB in the next fiscal year, except possibly through changes in the Budget Act itself, and at that it could be allocated only for non-workload items, which doesn't really help us.

Member Richardson asked if the Action Plan was something that EDD worked on with CUIAB, since it seems to affect just CUIAB.

Acting Executive Director responded that the Action Plan was a CUIAB document and not an EDD document. In the early stages EDD worked on some ideas with CUIAB, but the bulk of what is reflected in the document is CUIAB driven. CUIAB only has control over the changes it wants to make, and has no control over what EDD does.

Member Richardson commented that all of the items seem to be action items and asked if there were recommendations verses action items.

Acting Executive Director replied that CUIAB is not supposed to be making recommendations at this point, DOL simply asked that CUIAB research and analyze the processes, what the work flow is like, where the glitches are, and at some point the workgroup will reassemble and tell CUIAB to either take certain actions or make recommendations for CUIAB to take certain action. CUIAB is not

waiting for DOL to give direction in all instances, as action has already been initiated on several points set forth in the document.

Member Garcia requested that the document be updated to reflect the action items that have already been started; it should include a status box.

Acting Chair Aguiar commented that the status box should show a start date and indicate if the action is completed and resolves that particular issue.

Member Montañez asked that since CUIAB is still on the self-directed furlough and has requested exemption from the Governor. can we revert back to normal work.

Acting Chair Aguiar responded that CUIAB asked to be exempted when the Administration implemented the directed furlough of two days off. CUIAB received an exemption from the directed furlough, but still must have a self-directed furlough. He stated that his recommendation would be that the moment there is a resolution from the Administration regarding SEIU, CUIAB should immediately request an exemption again from the self-directed furlough completely.

Member Montañez asked if the majority of CUIAB employees were SEIU members.

Executive Director Flagg stated that CUIAB has Bargaining Unit 1 and 4 employees that are represented by SEIU. Kathy Carel of Personnel responded that approximately half of CUIAB employees are represented by SEIU.

Acting Chair Aguiar asked to get an analysis of what percentage of CUIAB employees are represented by SEIU. Kathy Carel of Personnel stated she would get that information for the Board.

Board Member Plescia asked if the SEIU agreement goes forward, what savings to the General Fund would CUIAB provide.

Acting Executive Director responded that the savings would be negligible.

## **7. Chief ALJ/Chief Executive Report:**

Chief ALJ/Chief Executive Alberto Roldan reported that the current open balance stands at 83,700 cases, of which the UI balance is 73,703. The 446 case change from the previous week is a growth in the inventory that is much smaller than in most of the previous few months. The new ALJs are starting to contribute, and the offices are participating in more mass calendars to try and wrestle down the numbers as well, with the exception of San Jose which has been unable to conduct mass calendars due to their temporary location. We are hoping to resolve that by renting an additional room where San Jose can stage litigants for the mass calendars. All of the offices are participating in mass calendars to some degree. There is room for significant improvement in the participation of individual offices in

terms of mass calendars. An ideal figure would be 75% of the ALJ IIs participating in mass calendars at the maximum amount of two per month in each respective office.

Acting Chair Aguiar stated that during the promotion process from ALJ I to ALJ II, one of the criteria was that that particular ALJ I has the ability to hold mass calendars, two per month, and questioned why right now we are at 40%.

Chief ALJ/Chief Executive Roldan responded that it is in the range of 40% efficiency. Thus at any given time he is not indicating that only 40% of the ALJ IIs are participating in the calendars, but in terms of them as an overall bank of persons that you can throw at this particular issue, at any time they are reaching a peak efficiency of only the utilization of them in the range of 40-50%. There are a couple of factors that keep them from reaching the ideal of rate of 100% participation, which would be unrealistic. You have to take into account the need of the PALJs, calendaring ALJ IIs for more complex cases, ALJ II's on annual leave or sick leave, so you are never going to reach the 100% ideal. Currently they are operating at a level of efficiency that is below what is appropriate and what could be achieved.

Acting Chair Aguiar asked Chief ALJ/Chief Executive Roldan to break down for the Board the district offices and how are they doing with regard to mass calendars, how many are they hearing, what percentage of efficiency are we getting and why are we not meeting a higher percentage than whatever the number is. He stated that if Chief ALJ/Chief Executive Roldan sets a lofty goal of 75%, to tell the board where each office is and why they are not getting to the goal of 75%, and what they are going to do to get there.

Member Richardson commented that one of the issues is that we have ALJ IIs that do not hear full calendars and do not do mass calendars. She asked if Chief ALJ/Chief Executive Roldan could pull that population out of the ALJ IIs before giving the Board the analysis of how many ALJ IIs we have available to do mass calendars, and then tell the Board how many mass calendars they are actually doing a week. Member Richardson stated she would like to know how many ALJ IIs CUIAB has that do not do full calendars and mass calendars and why. She stated they have to know what population he is talking about when they get the analysis, otherwise we have no basis for understanding why we are not meeting a higher percentage.

Member Garcia commented some of the action items referenced in the document previously discussed, like pilot programs and taking a look at calendaring, and looking at one party cases, are things that up front we know what the workload is going to be so that we can start distributing that workload in a way that makes sense. She stated that the other thing they were looking at is the retired annuitants who can do one party cases as a potential mass calendaring. Then you are also looking at the recent promotions that can do the mass calendaring. It does tie in together because we cannot do some of these action items without that.

Chief ALJ/Chief Executive Roldan commented that Acting Chair Aguiar had concerns on where they were in terms of the hiring under Phase One because the Board had already taken action in the past in anticipation of the increasing numbers to address workload. Chief ALJ/Chief Executive Roldan reported on his findings regarding the gap in the number of positions allocated by the Board, which totaled 25 including 4 fill behinds. He reported that of the remaining positions that have been unfilled, 11 of the candidates have been identified, so that they are currently going through the process of being scrubbed for their background and being presented and of the remaining 5 vacant positions, the listings for those advertised positions have been closed. So, a pool of candidates has been identified for those particular positions, which relates to the later discussion of Phase Two, addressing Acting Chair Aguiar's concerns as to why they are proceeding with Phase Two when they are not done with Phase One. He stated that they are not done, but we're close to it.

Acting Chair Aguiar inquired as to the 25, how going to the OAH list helped them.

Chief ALJ/Chief Executive Roldan responded that it had helped tremendously. Couple of points are that candidates can be identified and brought into the process almost immediately, so if a prospect happens to not have made an application but you think they would be a good addition, they can be invited into the process, make their application at the OAH website and become available immediately, where previously it took months to complete that process. Using the OAH list has also tapped into a different and very high quality pool of candidates that maybe did not understand that CUIAB was something separate from OAH. Some people made the assumption that OAH was the clearinghouse for all ALJs throughout the state and were not necessarily even making their way to the Board to be considered as candidates. The report back from each of the PALJ in terms of the quality of the candidates they have been interviewing and the packets he has reviewed have been quite good.

Chief ALJ/Chief Executive Roldan commented that he has discussed with the PALJs having more ALJ IIs participation in the mass calendar process. Some offices have actually gone beyond two a month and are doing them on a weekly basis, and rotating different ALJs through at that point in time, so some offices have really achieved some significant efficiency there. He stated that working with Rafael Placentia of IT, he is in the process of developing the Dragon Naturally Speaking pilot project, which is designed to give an additional tool to the ALJs in their arsenal of issuing decisions. It is software that allows the ALJ to dictate and the computer will translate and type into a decision what the ALJ is saying. Instead of decisions going into the Hub the ALJ would have a fairly finished product that is being generated in real time that they can then edit at the conclusion of putting together the opinion. This would relieve significant pressure off the Hub and lead to a much faster turnaround of cases. The average time it takes for an opinion to go into the Hub and come out of it again is 11 days. If an ALJ is adept in using Dragon Naturally Speaking that opinion is ready for finalization as soon as they are done

with their dictation into the software program. This has a real potential to significantly improve turnaround time, efficiency and take pressure off the Hub. There are 21 licenses all together, one for himself because he is planning on hearing cases in the Sacramento office, 3 to 5 licenses for Appellate Operations and 15 to 17 licenses for Field Operations. With the help of IT they are going to develop a standardize score sheet reflecting the pluses and minuses of using the software, and develop a standard protocol for the use of it so that it can be standardized throughout the state.

Acting Chair Aguiar inquired if he anticipated any resistance in the field going with the Dragon program.

Chief ALJ/Chief Executive Roldan responded that he brought up this pilot project at the PALJ meeting last week and it was received very positively; it is something of a generational issue. There are a few ALJs that currently use the software exclusively and find it to be a much better situation than the HUB. With licenses at less than \$200, it is a very inexpensive tool. We are looking into having standardized training so that it can be utilized at an effective level.

Chief ALJ/Chief Executive Roldan that the PALJ meeting held at headquarters last week was his first experience having all the PALJs together, and that it was very positive. It was a good opportunity to have input from the PALJs directly and to have very frank discussions with them about our circumstances. The PALJs contributed some interesting ideas in terms of how individual offices are dealing with the workload, and some of the offices learned ideas from the exchange of information.

Chief ALJ/Chief Executive Roldan reported that ALJ Lillian Waters, who took over for Randy Petersen as the Chief Training Officer, has the next class starting on March 23<sup>rd</sup> and two more classes starting April 13 and May 11, 2009. The training procedures have been updated, and this has been efficient and seamless transition and ALJ Waters is doing an excellent job.

## **8. Branch Report:**

a. Acting Presiding Judge, Appellate Operations (AO), Jorge Carrillo reported that for the month of February 2009, Appellate Operations (AO) registered 1,326 new Board appeals, 13% below the fiscal year average of 1,522 cases a month. The appeal rate from Field Operations dispositions was usually low, 4.9%, a whole point below the fiscal year average of 5.9%. On the other hand, the amount of unregistered cases at the end of the month was high, close to 700 cases, when it is typically around 300 to 400 cases. They had a high number of absences in the registration unit due to illness which contributed to falling behind. AO will focus on catching up with unregistered cases this coming month.

Dispositions in February 2009 were 1,599 cases, 6 percent above our fiscal year average of 1,511 cases. As dispositions exceeded registrations, AO's balance of

open cases dropped to 2093 cases, 7 percent below the fiscal year average of 2,250.

AO's time lapse numbers are improving. 43% of dispositions were closed within 45 days of the appeal date, 172% above the fiscal year average of 25%. Between all of our efforts, from Field Operations getting Board appeals to AO sooner, from AO ALJs and support staff focusing on moving cases with time lapse dates in mind, and to the Board completing its review by the time lapse dates indicated in the e-file, AO and the Board have made dramatic efforts to improve our 45 day time lapse mark. AO also met the other 2 Department of Labor (DOL) time lapse standards by closing 87% of dispositions within 75 days and 100% of dispositions within 150 days of the appeal date.

Unfortunately, the case aging number, i.e. the average age of open cases, rose to 44 days, 18% above the fiscal year average of 37 days. In late February, we discovered that 169 cases, possibly more, involving applications to vacate were not timely forwarded to the Board. (Attachment B) In February we received 62 of these cases and many of them were several hundred days old and some were over a year old. As such, they adversely affected our case aging number. In March, we expect to receive the bulk of these cases and we expect the case aging number to be even higher. We are taking steps to make sure this does not happen again. We are providing training to the mailing clerks in field offices, we are developing a special cover sheet that will be attached to such files to alert the mail clerks to send these cases to the Board, and we are running a monthly report that will identify these cases to us. Hopefully, these steps will prevent these cases from being missed.

Acting PALJ Carrillo also included information for the time it is taking to get Board appeals to AO. (Attachment C). The numbers for the month of January 2009 remained excellent while the numbers for the month of February, with a few exceptions, remained good. All of the offices are paying attention to this aspect of the process and he expects the results will continue to improve in the future.

Member Richardson inquired as to how they discovered the 169 cases.

Acting PALJ Carrillo responded that they noticed a few cases were taking unusually long getting to AO, so he asked IT to investigate and run a report to try and capture these cases. That is when it was discovered that there was a large number of these cases throughout the state. It is a tricky issue that requires knowledge and with a lot of new the new employees it is the kind of thing that could easily be missed.

Member Richardson complimented them for a good job on the query.

Member Garcia questioned, going back to the missed applications, when there is good cause which exists for nonappearance and the ALJ is listening to that hearing, does the ALJ conduct that hearing right then. Acting PALJ Carrillo

responded that yes the hearing is conducted at that time.

Member Garcia asked where the case goes from there, in terms of the mail room.

Acting PALJ Carrillo replied that if there is good cause for the decision the ALJ will set aside the old decision and conduct a new hearing. They will then issue a new decision and the parties will have a right to appeal that one. If it is not appealed it will be closed and sent to archives. but if it is appealed it will be sent to AO.

Member Garcia commented that if that ALJ is holding the hearing that same day, the first portion of that hearing is on the Order to Vacate and set it aside, the second portion is the merits of the case. She asked where does that file go, to the same mailroom for processing or does it go somewhere else so that they can transcribe the information.

Acting PALJ Carrillo responded that the ALJ has to issue an Order either granting or denying so that Order has to go to the decision typist first. They are going to type it and if it is granted it they will type a new decision on the merits, but if it is denying it then it will go to the mailroom and the decision will be issued on the Order and both the Order and the prior decision will be sent to AO at the same time.

Member Garcia questioned whether there needs to be retraining of the typists also so that they are directing it to the right mailroom person or operation so that they know that it is an active case. She stated that there is someone in the middle between the mailroom and the ALJs and she thinks is the typist who is handling the case file and transcribing what happened. If the decision is set aside and now we are looking at the merits and it goes forward or the decision is not set aside and the case is dead, which in that case it ends up stored and put away. She stated that it is the group in the middle that is actually transcribing the AJL decision and should be included with whatever training happens with the mailroom.

Acting PALJ Carrillo responded that is something that certainly could be looked at. He stated that it has not been the typists' job to recognize how the Order or the decision is ultimately treated. That responsibility goes to the mailroom clerk to make sure that the Orders and the decisions go out as they should either stored or sent to AO.

Member Garcia suggested that maybe it is as simple as that new coversheet that is used to have some sort of check off so that they are in the loop somewhere with an understanding that this is still an active file, that there are some time lines that still need to be honored because it is a live document.

Acting PALJ Carrillo responded that he will take a look at it and see if there is something that could be done there.

Acting Chair Aguiar expressed his appreciation to Acting PALJ Carrillo for all his

suggestions, ideas and recommendations he has made and that it has made a difference. He also thanked Rafael Placentia and the IT team working closely with Acting PALJ Carrillo for the results of their collaborated relationship.

Acting PALJ Carrillo commented that the IT staff has been really good at helping him fetter out the essential information from the nonessential.

b. Pat Houston, Staff Service Manager II, presented the Administrative Services Branch report in Deputy Director Pam Boston's absence.

**Interpreter Training** – The Bilingual Services Unit is conducting statewide interpreter training. This training provides outside interpreters with guidelines for interpreting at CUIAB hearings. The training covers basic concepts and format of CUIAB Hearings; interpreter protocols such as how to review a file, do's and don'ts, seating guidelines, as well as the Interpreter Qualification process. This training is mandatory for all current provisionally qualified interpreters as well as those who are seeking interpreting contracts with CUIAB. We have completed training in Oakland, Inglewood, San Francisco and Los Angeles. To date we have trained 50 interpreters representing 26 different languages.

**Recruitment Memorandum** – This memorandum was distributed to supervisors, and included the following reminders and activities that the Personnel Unit is undertaking:

Continuous File Job Opportunity Bulletins – We have had difficulty recruiting individuals in Southern California, so we decided to post job opportunity bulletins for OA/OT with a continuous file option. We will continually collect applications so when a vacancy occurs we will have an immediate pool of candidates. (The memo specifically addressed Southern California but a decision was made to include all Field Offices)

Seasonal Clerk/Student Assistant – Personnel is planning to transition in using the classification of Seasonal Clerk versus Student Assistant for our temporary clerical support. The intent of the Student Assistant is to provide students experience in their area of study as opposed to utilizing the student as clerical support. The main function of the Seasonal Clerk is to perform clerical duties. Both classes are restricted to working up to 1500 hours per year, however there are differences in how the hours are tracked.

Open Office Assistant/Office Technician exam – The SPB has just concluded testing in Southern California for OA and OT. This will provide us a better candidate pool for this area.

Limited Examination and Appointment Program (LEAP) – LEAP is another recruitment tool that facilitates the hiring of persons with disabilities where accommodations can be provided.

Nepotism Policy – Reminding hiring supervisors of our nepotism policy.

State Restrictions of Appointment (SROA) – With the Statewide issue of layoffs CUIAB will be required to contact candidates who have been targeted for layoff. This will be done automatically when a job opportunity bulletin is distributed. We are required to interview these candidates and if they possess the skills necessary to perform the essential functions of our jobs we will have to offer them the job.

Office of Administrative Hearing, ALJ exam – We have experienced an increase in interest for ALJ positions in all tenures and time bases.

Phase One hiring – As of today we have hired 9 ALJ's and 12 Support Staff under Phase One of the workload reduction plan. We still have 16 ALJ and 9 Support staff to hire in the remaining months.

Chief ALJ/Chief Executive Roldan clarified that the candidates have been identified for 11 of the positions, meaning that the list was closed, the candidates were interviewed, and the PALJ have ranked them and are in the process of submitting specific candidates for those positions. With the additional 5 of the 16 positions what the closed listing means is that the positions had been advertised as required by State civil service law and those lists have been closed and there is now a pool of candidates that need to be interviewed to determine whether they are appropriate candidates to fill the remaining 5 positions. The proportions are about the same in regard to the support staff.

San Jose Office: The lease for the San Jose Office of Appeals permanent space has been executed. The first preconstruction meeting is scheduled tomorrow at the site. The project completion target date is June 30, 2009.

Orange County Remodel: This morning we received approval from Acting Chair Aguiar to proceed with the remodel in Orange County. The remodel consists of converting underutilized board room and office space to three hearing rooms and downsizing two support staff offices. No additional office space will be added and there is no increase to the monthly rent. The total cost of the remodel is \$156,000 which will be paid as a lump sum payment.

Also approved are three early pay offs of amortization costs for tenant improvements: The project locations are: Inland \$68,000 pay off, \$17,100 savings; Concord: \$57,508.56 pay off, RESD calculating savings, but similar to Inland's savings; Chico: \$63,977 pay off, \$11,000 savings.

Acting Chair Aguiar stated that he approved pay off of those because of the savings off interest and that they were not large amounts.

She reported that on the San Jose office construction has just begun, and CUIAB's portion is \$490,000, and if that was amortized over the 96 months, it is \$230,000 additional.

Acting Chair Aguiar did not approve the San Jose pay off until final numbers were received.

**9. Chief Counsel's Report:**

Chief Counsel Ralph Hilton reported that the new Board Members are catching up in caseload assignments, and that after this month they would be handling the same number of cases as the established Board Members.

In litigation Chief Counsel Hilton reported six new cases were filed last month, and one case was closed, which was an affirmation of the Board decision. We are currently carrying 186 cases.

Chief Counsel Hilton reported that a Memorandum was issued by the Legal Affairs Secretary for the Governor which requires the posting of Form 700s and Travel Expense Claims for certain State officials. The requirement applies to Agency Secretaries, Undersecretaries, Department Directors and some Governor's Office staff, but not to Board Members.

**10. Unfinished & New Business:**

Renee Erwin, Staff Service Manager II, reported that it is the time of the year where all State Agencies submit their out-of-state travel request for the next budget year, 2009/10, for review and approval by Finance and inclusion in the Governor's budget. All State Departments were urged to strive for an additional 20% reduction in their out-of-state travel. For the current year CUIAB has 13 trips approved, in the amount of \$22,950. What have been submitted, based on approval from Acting Director Flagg, are three trips in the amount of \$9,000, which is a reduction of 77% in the number of trips and a reduction of 61% in the dollar amount. Those trips include a 15 day meeting with U.S. DOL in Washington DC for the annual review of State quarterly self evaluations, typically attended by Hugh Harrison. We are required to put this in as an out-of-state trip even though we get fully reimbursed by DOL. The other trips included were two trips to attend the National Association of Unemployment Insurance Appellate Boards annual conference, slated to be held in June in Connecticut. The attendees are selected by the Board.

Ms. Erwin presented Phase II of the UI Workload Reduction and Efficiencies Plan, 2008/09 Budget Impact. (Attachment D) Potential Budget Reserves for the current year 2008/09, 1<sup>st</sup> and 2<sup>nd</sup> Quarter, at 32% reimbursement \$1.4 million, and at 100% that would increase by \$2.8, bringing it to \$4.3 million.

The next item is an estimate of what the 3<sup>rd</sup> and 4<sup>th</sup> quarter increased earnings would be at 32%. She stated that these were very conservative numbers which will probably come in higher based solely on the fact of the Phase One new hires and additional productions. So the earnings will be higher than the first two quarters in the 3<sup>rd</sup> and 4<sup>th</sup> quarters.

There is also in the budget a 4% Cost of Living Adjustment for the ALJs that was contingent upon a MOU being negotiated and approved and ratified, which has not happened to date.

Acting Chair Aguiar commented that that money was set aside in the event that there is an agreement and a COLA adjustment at 4%, if it is above 4% the board needs to talk but if it is 4% or below the money is there.

Ms. Erwin reported that then there is the question of CUIAB's over base earnings. Budgeted for 2008/09, which was approved by the board, was earnings at 32% which is \$3.8 million. If funding is received at 100% there would be an additional \$11.9 million which would bring the actual over base earnings to \$15.7 million. That is contingent upon Congress passing the Federal budget, which is now at the House.

Member Richardson questioned the over base figure shown. Ms. Erwin explained that what was approved in the budget was 32% funding for over base. There is \$3.8 million in the budget right now. If CUIAB receives 100% funding that would be an additional 68% added, increasing the budget by \$11.9 million bringing it to a total of \$15.7 million.

Acting Chair Aguiar commented that an entity cannot put together a budget that is based on maybe getting \$11.8 million and if you do get it you do not know when, and if you get it June 15<sup>th</sup> you have 15 days to spend \$11.8 million. He stated that he is real cautious on the Option B issue.

Member Garcia stated, for instance, what happens if we spend at 100% funding, but we don't actually receive the funding, how would we pay it back if it does not happen.

Ms. Erwin responded that she had several discussions with EDD and the summary of what EDD told her was EDD has issued these dollars to CUIAB at 100%. EDD said CUIAB should be spending its budget as it is issued based on what our resource needs are in conjunction with the workload. EDD is spending their budget at 100%. If come April or May CUIAB finds out that the Federal budget is reduced to 32%, how could any Agency be expected to repay that amount of money in such a short turnaround and the answer she received from EDD was that there would be some modifications and adjustments that would have to be built into the May revise in order for a State Agency to have time to absorb and pay those funds back.

Member Garcia stated that she would agree with the Chair that it would make her nervous to spend money on a wish list where we don't really know we're going to get that money.

Member Garcia stated that she would be more comfortable saying we already know what we have at the 32%, let's do an action plan based only on that funding level. She stated she would like to see some of the potential dollars looked at in

terms of what our vision is for the Agency, so that we are ready to implement it if the money comes. The other question is what happens if we have this 32% and we are so cautious and spending none of it, do we have to give any of the money back or is it absorbed by another Agency.

Ms. Erwin responded that whatever we do not spend of our budget is returned to EDD, and they have a Federal fiscal year 5<sup>th</sup> quarter that ends September 30<sup>th</sup> in which to spend those dollars down.

Acting Chair Aguiar commented that as he understands it under Option A the issue of money going back to EDD is not an issue because we know we are going to spend that.

Ms. Erwin responded that was correct, but CUIAB is going to have a tough time spending the \$4.2 million in the amount of time left in this year.

Acting Executive Director Flagg commented that this is uncharted territory for CUIAB as EDD has indicated that this is the first time that we have been in this situation with DOL where they have indicated that they are only funding us at 32%.

Member Richardson questions, in looking at Option A, if we do not use the money set aside for the COLA, does it go back to EDD.

Member Garcia questioned why CUIAB would have a hard time spending the \$4 million by the deadline.

Ms. Erwin responded that based on the plan, and past experience, what is being proposed is 20 hires every month, getting them trained and onboard, and even that is overly aggressive compared to what has happened in the past. It has not been as easy to get these people onboard as thought due to the hiring process and the timelines involved.

Member Garcia commented that if we could not do the people portion of it could we not do the automation portion of it in terms of Agency efficiency. She stated that we could buy equipment, IT and that portion of it faster than we could process people. She stated she would not want to leave any money on the table. She went on to say she would rather move a portion forward that we can capture a benefit this year versus losing it and not having it available next year.

Ms. Erwin responded that at the end of next month the Budget Advisory Committee is meeting and at that time they put together a list of all OE & E needs that could potentially be funded with year-end moneys that would help advance us, make us more efficient and that will be presented to the Board for its approval.

Member Garcia asked if that would be presented at next month's board meeting. Ms. Erwin responded that the committee meets next month for presentation of the budget at the May board meeting.

Member Garcia stated that that was too late and that by then there is the May revise on the State side and then it makes us look as an Agency as we are trying to squeeze in something before we get to the budget end. She stated that she felt that would subject CUIAB to some criticism that it is waiting too late. She asked if there is any way to move up that schedule.

Acting Chair Aguiar agreed that that was a good suggestion and he realizes that there may be some scheduling conflicts, but if they could get the BAC meeting at the end of March and bring a recommendation to the April board meeting that would be better.

Ms. Erwin continued to report on the handout, referencing a timeline identifying once the different options are implemented when FO will achieve their goals. What is being proposed in this plan is a completion of Phase One hires at an accelerated rate, increasing team calendars to 75% of ALJ IIs to bi-monthly (81 ALJ IIs doing 2 team calendars per month), that would produce an additional 1,702 dispositions per month. She stated they are proposing in May, 20 additional ALJ hires which will take 2 months for training so their workload will not kick in until August and then another 20 ALJ hires in June and that workload will become fully implemented in September. What all of these items do is increase the level of dispositions to 36,407 which is each month reducing the backlog by 3,239. The goal would be achieved to make time lapse and case aging by February 2011.

Acting Chair Aguiar asked how realistic are those hiring goals.

Chief ALJ/Chief Executive Roldan responded that he thinks that is overly optimistic. He stated the overall needed number to get us back to a reasonable level of disposed cases versus verifications is going to be 60 ALJs. There was an earlier projection of 72 but that was relying too heavily on new hires versus trying to achieve efficiencies with the existing population of employees. He stated they came to this number which is a more realistic number overall. To answer the question, he stated realistically they could achieve 30 hires by the end of this fiscal year.

Acting Chair Aguiar commented that he is concerned about the expectations. He stated that people are not going to be looking at the revenue side as much as they will be looking at what is being done to impact the backlog. He wants to be really clear and realistic with the number they are talking about and the expectations they put out there.

Chief ALJ/Chief Executive Roldan responded, in weighing that, he thinks the number 30 in this fiscal year is realistic when looking at a couple of different factors. We have pretty much identified the pool of ALJs to come onboard in terms of Phase One. In doing that process and using the OAH list we have already identified a pool of candidates that could be tapped into for a lot of this hiring. The other thing that has been a drag on the hiring is, we have permanent positions,

permanent limited positions and a fewer number of PI positions. When you advertise for categorizes of positions you cannot have the candidates apply for a permanent position but use them for a PI position. You have to go out a re-advertise for the PI position. Then the person has to reapply into that position. He stated that they are now doing one category of advertising, PI, throughout the state. They are eligible for all PI position as opposed to the situation where you advertise for a permanent position then you have a PI position, that person would have to reapply for the PI position.

Acting Executive Director Flagg commented that in addition to the 40 ALJs that are being proposed for new hires, there is an equivalent amount of support staff that is being proposed to be hired. What is being presented is a total of 80 new hires for the field.

Acting Chair Aguiar comment that that was a good point and that hiring the support staff is more of a challenge than he would have anticipated.

Chief ALJ/Chief Executive Roldan commented that one report that has come back to him from the PALJs and the LSSs are that PI rank and file positions at the support staff level are perceived as being very unstable positions and less desirable.

Acting Chair Aguiar asked if the recruitments were also non-existing State employees.

Acting Executive Director Flagg responded that an individual who wants employment with the State must take an exam to get on a list. We are in fact hiring from some those lists.

Acting Chair Aguiar inquired if that list consisted of current State employees and non-existing State employee that have passed the test.

Acting Executive Director Flagg responded that that was correct, and that SPB just recently gave an exam for Office Assistants and Office Technicians and they have approximately 200–250 people on those lists now to chose from. Plus CUIAB just started about a week/week and a half ago to except continuous applications. These are people who are in the State civil service system but we are simply stating that we are hiring and they should continuously apply to us. That is posted on our public website and on The Bench, which is the intranet for CUIAB employees.

Acting Chair Aguiar stated that there are unemployed Californians out there who are probably on the list and he is having difficulty understanding why they would not apply for the support staff positions.

Acting Executive Director Flagg commented that the list is fairly new, SPB just finished closing that exam and we now have a fresh list for people to choose from.

Which means the likelihood of having some non-State workers on that list is great.

At this point there was a lengthy discussion of the hiring process between the Board and staff, with great concern expressed by Board Members about inefficiencies and duplication of effort. At the end of the discussion, the Board instructed staff to do everything within their power to expedite the hiring process to that our hiring goals (40 ALJs and 40 support staff) can be met. Some of the ideas mentioned included a travelling interview and hiring team to help field offices, more inclusive job notices, use of just one application from each applicant for multiple positions, and application of mass hiring techniques.

Chief ALJ/Chief Executive Roldan stated that the process could be handled internally because now they will only be wrestling with one category of applicants, i.e., PIs, instead of permanent positions.

Members Richardson and Garcia volunteered to participate on the travelling interview panel.

Acting Chair Aguiar directed the discussion to other requests in the proposed budget revisions, noting the impact of all the new field staff on upon the Agency's support units.

Member Richardson inquired if once this flurry of activity is completed there might be too many Personnel staff or would Personnel be right where it should be. Kathy Carel responded that they would be right where they should be.

Acting Chair Aguiar commented that he thinks even if they do approve these requests, they may still be a bit behind the curve but that is something that can be evaluated as they go through the process.

Acting Executive Director Flagg reiterated that most of the hires that are being discussed are permanent interment and not permanent hires or limited term hires, so if the work is not there, we simply reduce or eliminate work hours. However, Acting Executive Director Flagg did state that we are going to ask the Department of Finance to reinstate about 26 fulltime positions that were lost late last year, most of which are support staff, middle managers and supervisors and six or seven ALJs.

Chief ALJ/Chief Executive Roldan commented that you can hire these people now as PIs and see who the best ones are and use the opportunity to recruit from PIs positions into the permanent positions.

Acting Executive Director Flagg responded that that is what they have been doing as people have been retiring.

Member Garcia asked if there was anything required on the Civil Service side that allows them to draw candidates from A, B and C lists and to let them know that

they are being considered for A, B and C when they come in for that initial interview.

Kathy Carel responded that if she is talking about mass hiring for PIs for all locations, that would simplify the whole process for Personnel. She stated that there are different variables for the permanent tenures.

Acting Chair Aguiar referred back to page 5 of the budget and stated they would leave it at 40 ALJs and 40 support staff by June 30.

Ms. Erwin continued to report that there is a hiring timeline for Appellate Operations, but at this point in time there are no additional hires being proposed under the assumption that they would be done in the 2009/10 budget year.

Acting Chair Aguiar replied that through discussion with Acting PALJ Carrillo that he would come back in 2009/10, because based on the field hiring of additional ALJs, we know there will be increased appeals to AO.

Acting PALJ Carrillo responded that he would like to hire the ALJs in July and have them be prepared in September.

Member Richardson asked how many positions make up the Procurement Division.

Pat Houston responded that currently there are 4 buyers and 1 supervisor. She stated that they have looked at all efficiencies; they have changed some of the ways that they do business as much as they possibly can and still stay within the delegation requirements. She stated that they are bogged down a great deal by competitive bidding, and that they need staff in order to comply with those requirements as well as continuing to provide services.

Acting Chair Aguiar clarified that Procurement is actually farming out some of the workload of their buyers to other non-buyer employees in the Agency.

Pat Houston responded that was correct. That was not necessarily due to efficiencies but just because it was out of necessity as they lost the employees. She stated that now over time what that has done with the increase of work is created a tremendous amount of backlog and work that they cannot catch up.

Acting Chair Aguiar recommended that the Board support the Administrative Services Division request for three positions.

Rafael Placencia, CIO, Information Technology Division reported that IT is requesting four specific positions. He stated that the support of the IT Division provides ongoing and necessary services to CUIAB to continue processing appeals. The entire process is highly dependent on IT. He stated he needs staff working on projects as well as maintaining the existing system. He recommended

using 5% of total CUIAB PYs as a guide for providing IT services.

Acting Chair Aguiar stated that was not going to happen and that they need to focus the four specific positions requested in the budget adjustment.

CIO Placencia reported that the Sr. ISA Supervisor position was a back fill position and should not be included in this budget adjustment. He stated he needed two additional assistants for the Help Desk area, one ISA Specialist for the Network Operations Unit, one System Software Specialist for Server Operations. The two AISA positions are for the Help Desk area.

Acting Executive Director Flagg clarified that the IT shop has been short staffed for the last year and a half. During the 2007/08 fiscal year budget they thought they were going to have a shortfall so they pulled in the reins on filling positions. In the process of doing so IT ended up losing some of their permanent fulltime positions to other branches and units in the Agency. The server and network positions are extremely important because they provide the support that you do not see for all the new hires. There are currently 2.5 employees at Help Desk in Sacramento and two in Southern California, for a total of 4.5 positions. With the addition of 150 or so more employees, we will need at least two more people at Help Desk.

Acting Executive Director Flagg added that there is another piece of the puzzle that we have not been talking about. Based on the 5-year IT Capital Strategic Plan, CUIAB is migrating towards a central system with the State, and the Labor and Workforce Development Agency Chief Information Officer has said that that would create a larger workload while going through that transition and migration. Therefore CUIAB needs to ramp up staff in anticipation of that. She stated that CUIAB is not there yet, but at this time is trying to fill positions that they are behind on.

Member Richardson stated that she had assumed that these positions were new PI positions but asked if some of these were permanent.

Acting Executive Director Flagg responded that they do not know yet if they have the positions so they will either be PI or permanent. Ideally they should be permanent.

Acting Chair Aguiar recommended the board approve the requested four new positions and the one backfill position for the IT Division.

Chief Counsel Hilton reported on the 2008/09 budget adjustment positions request for Executive as follows: 1 Staff Services Manager II to provide assistance to the Executive Director; a Legal Analyst/Executive Secretary because currently the Chief Counsel and the Acting Executive Director are sharing a secretary who cannot keep up with the combined workload; one half time MST to handle attendance for Executive and IT. Acting Chair Aguiar clarified that there is an existing Secretary now and then there would be a backfill of the Legal Analyst

position.

Acting Executive Director Flagg clarified that the new positions Executive is requesting are one lower level Analyst, .5 MST, and one Staff Service Manager II.

Acting Executive Director Flagg clarified that the lower level analyst would perform workload analytical work for the Executive Director's office.

Acting Chair Aguiar reiterated the positions requested for the Executive Director are two additional bodies, plus no longer sharing the Executive Secretary. Chair Aguiar stated that he would not recommend approval for the lower level analyst. He stated he recommends the backfill of the Legal Analyst for the Chief Counsel.

Acting Executive Director Flagg commented that it would be more helpful at this point if Executive had the lower level analyst as well. She stated that the Executive Director is responsible for a considerable amount of work, with very little staff to help perform that work.

Acting Chair Aguiar stated he could not approve the low level Analyst at this time. He suggested that they move forward with the Executive Assistant, the .5 MST and backfill the Legal Analyst for the Chief Counsel and the Acting Executive Director would take over the current fulltime Executive Secretary.

Robert Silva, AGPA, reported on the OE&E Allocations for Phase II of Workload Reduction Plan (Attachment E). He stated that the dollar figure is upon a total of 147.5 new positions during 2008/09 and 2010.

Acting Chair Aguiar asked if for clarification on the 147.5 proposed PYs.

Ms. Erwin responded that the request was the total for Phase I and Phase II new hires, and they are looking at a total of 87 for current Phase II.

Acting Chair Aguiar stated that the travel seems like a lot and asked for clarification.

Mr. Silva responded that most of the travel is for Field Operation ALJs, based on the additional workload that they will be providing and the day to day travel they will be doing to the outstations to conduct hearings.

Chief ALJ/Chief Executive Roldan commented that all the new ALJs are also trained in Sacramento which will require some travel.

Member Richardson stated that the document shows it divided up into travel, travel training and then training. She asked for clarification.

Mr. Silva explained that the travel training category is specifically the onetime cost

for the ALJs to come up for the one week training and the following trips for the follow-up training. The travel training looks at a fiscal year for 16 one-day trips per year for the purposes of going to quarterly PALJ meetings, and LSSII meetings for personnel related issues. The one time travel training is for ALJs to travel to Sacramento for a full one week followed by an additional 3 day period and another 3 day period, which ends up being approximately 2 weeks.

Member Richardson asked if both Personnel and ALJs were included in the travel expense.

Mr. Silva responded that was correct, and clarified that the onetime process is specific for ALJs traveling for training where the ongoing would be Personnel during the course of the year.

Acting Chair Aguiar commented on the \$740,000 for furniture. He stated that he does not want to see new furniture if we have not exhausted existing resources from State government. He stated that in State government there are opportunities to get furniture before you go out and buy new. He also commented that when CUIAB hires these new employees he does not want to see automatic requests for expansion of real estate space. He wants a team to go out and do a survey to make sure we are utilizing the existing space.

Member Garcia agreed that there is a lot of stuff in storage throughout State services.

Acting Chair Aguiar recommend to adopt the proposed 2008/09 budget adjustment Option A with the expressed changes, and asked Chief Counsel Hilton to state the motion for the Board.

Chief Counsel Hilton stated the motion as follows: that the proposed Phase II Plan as presented to the Board be approved with the following specifications: approval for 40 ALJ hires and 40 support staff hires for the field; for Administrative Services, three positions as set forth on page 5, for Information Technology, 4 positions and one back fill as set forth on page 5, and for Executive, 1.5 new positions and one back fill also as set forth on page 5, along with the associated OE&E expenditures as set forth on pages 5 and 6.

Acting Executive Director Flagg stated that the language should say, reflected on page 5, as modified for both Information Technology and Executive.

Acting Chair Aguiar stated that a motion is in order to approve the summation of directing staff on the 2008/09 budget plan.

Motion carried unanimously.

**11. Public Comment:**

There was no Public Comment.

**12. Closed Session:**

No votes were reported.

**Adjournment**