Prepared Statement

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Introduction

Good afternoon Mr. Chairman and Members of the Committee, my name is Dr. Robert Whitaker and I am President of MissionStar Processing, a value-added fresh-cut vegetable processing company based in Salinas, California. MissionStar Processing is joint venture of Salinas grower-shippers NewStar Fresh Foods and Misionero Vegetables to process their value added organic and conventional fresh salads. Our company produces a variety of spinach, spring mix and blended baby leaf salads and specialties for foodservice distributors and private label products for a number of retail customers.

I received my Ph.D. in biology from the State University of New York at Binghamton in 1982, and have spent my career in microbial and plant biochemical genetics, the use of biotechnology to develop new plant varieties, and management of food safety/quality assurance operation in the processing of fresh value added vegetables. In the past five years, I have been responsible for overall process operations of our company's processing business and overseen the construction of two state-of the-art value added vegetable processing facilities.

I am also the immediate past chairman of the International Fresh-cut Produce Association, which recently merged with the United Fresh Fruit & Vegetable Association to form United Fresh Produce Association (United Fresh). Together, we have combined forces to deliver the highest level of food safety and scientific expertise to our industry. Our association is led by a Board of Directors representing leaders from every sector of the industry, a 50-member Food Safety and Technology Council including scientific experts from our member companies, and an expert staff food microbiology, plant sciences, nutrition and health, and much .

I want to compliment the committee today for holding this very timely hearing given the ongoing focus on food safety across the industry, and the collective response of government and industry to the recent E. coli 0157:H7 foodborne disease outbreak associated with one fresh spinach product.

First, let me address the human impact of illness associated with this outbreak. We cannot ever forget that more than 200 people in 26 states became seriously ill, and several died, directly from eating one of our industry's healthiest products. The consequences of that fact alone are huge, and any one of us in the business of growing, marketing and selling ready-to-eat foods must embrace the importance of our own personal actions in reducing the risk of that happening again.

That is a commitment that my company and our entire team of officers and associates take seriously every day, and it is a commitment that our entire industry is making to consumers of our products. Growers, processors, retailers, restaurants and trade associations that represent our companies across this industry will simply do everything we know how to minimize the risk of something like this happening again. As scientists, we know that one cannot achieve zero risk with anything in life, but we will work hard to drive risk as low as possible.

Industry Impact

The Committee asked me to share some sense of the impact of this outbreak on our business and the industry, and provide thoughts on ways to prevent or more quickly contain future outbreaks.

Two months ago, the FDA took the unprecedented action to advise consumers not to consume any fresh bagged spinach. That advice arose from the immediate concern that a serious E. coli 0157:H7 foodborne disease outbreak was underway, and that government officials could not tell exactly where contaminated product might be in the marketplace. Unlike a traditional food recall of only product that was directly implicated in an outbreak, FDA felt that proper caution required warning consumers against an entire produce commodity category.

Why did FDA issue such a broad warning? At the outset, CDC and FDA were faced with a terrible mass of confusion -- strong evidence of a growing outbreak of serious illness and possible death, strong circumstantial evidence linking it to fresh bagged spinach, but with confounding factors of several different brands and many different days of production potentially implicated by bagged product still in patients' refrigerators. The public health agencies acted in their best knowledge to protect public health.

With the benefit of hindsight, we now know a whole lot more about the scope and source of the outbreak. FDA has since confirmed that all contaminated product in this outbreak was produced in one processing plant – on one day. All spinach processed in the plant on that day came from a maximum of four farms. While we continue to investigate exactly how that contamination might have occurred, we know that contamination was limited to a very small part of the fresh spinach supply – only product that was processed by that one company from one day's production.

Yet, despite the actual narrow cause of the outbreak, the entire fresh spinach industry has suffered a tremendous blow. Growers and processors of fresh spinach that had perfectly safe product in the marketplace, including my company, pulled our product from retail shelves, warehouses, processing plants, and even stopped harvesting. I am proud of the way our entire industry responded to FDA's immediate concern, but also concerned that we did not collectively narrow this outbreak and communicate to consumers that it was safe to consume spinach that was not implicated in the recall. Two months later, we are all still suffering from a loss of market confidence due to fears about general spinach safety that were unwarranted by the facts of this outbreak.

We strongly urge the Committee to work with FDA, CDC and other agencies to more quickly limit the scope of concern in an outbreak such as this. Long-term, public health will not be well-served by consumers losing confidence in entire fresh produce categories because we fail to limit the damage when something does go terribly wrong with one company's products.

Produce Industry's Food Safety Focus

Looking to ways to prevent future outbreaks, let me state clearly that food safety is the produce industry's very top priority. We strive every day to bring fresh fruits and vegetables to consumers around the world that are safe, wholesome, nutritious and great-tasting. We are constantly working to enhance and improve our performance in growing crops in the field, carefully harvesting and handling them for distribution, packaging and processing commodities into convenient, ready-to-eat products, and maintaining the safest possible delivery chain all the way to the consumer's table. Our food safety commitment runs from field to table, and requires the active management of every player along the distribution chain.

Food safety is a process of continuous improvement for our industry, and we are constantly striving through industry and government research and process operations improvement to further reduce any potential risk.

- Our farmers in the field are urged to follow strict "Good Agricultural Practices" (GAPs) that are reviewed by academic scientists and regulatory officials to help assure fresh produce safety. Today, we are in a constant process to update, strengthen and quantify these practices for specific commodities.
- My company MissionStar and our colleagues in the fresh-cut processing of produce follow strict food safety systems in their processing plants, including rigorous HACCP (Hazard Analysis Critical Control Point) systems and GMPs (Good Manufacturing Practices) to prevent food contamination from occurring.
- In these fresh processing plants, produce companies take special precautions, such as removing dirt or other contamination that might be found. Raw product then goes through a vigorous washing process in the plant, often rinsed three times in chlorinated water, to help ensure the product is clean and free of pathogens.
- Then, careful temperature control is monitored throughout the distribution chain, shipping produce in refrigerated trucks to retail markets and restaurants.
- Because fresh produce is often consumed uncooked in its raw state, everyone handling produce must prevent cross-contamination from raw or undercooked meats, used cutting boards, and even dirty hands that may be carrying bacteria. The produce industry is a strong supporter of the government-industry Partnership for Food Safety Education, which sponsors the Fight BAC food safety consumer education initiative.

Our goal when it comes to food safety is that no one would ever become sick from consuming our products. We take our responsibility seriously to provide the safest possible foods to each and every consumer every day. That is an enormous task when you consider what it takes to feed America's produce consumers. While we are proud of our safety record in producing some 6 million bags of salad for Americans every day, we will never be satisfied if even one consumer gets sick from eating our products.

Next Steps

It is now critical to begin to look at lessons learned from this episode, working with Congress, FDA, CDC, USDA, and others to find the right tools to prevent future

outbreaks, and to also minimize the damage to whole food categories should a similar situation unfold in the future.

Federal research dedicated specifically to fresh produce food safety is critical to making advancements in preventing future foodborne outbreaks associated with produce commodities. Over the years, the Congressional agricultural appropriations budget has been the primary source of funding for such research. In addition, USDA has the ability to allocate critical funding targeted at fresh produce food safety through several different research arms, mainly CSREES and ARS. Unfortunately, current funding is not sufficient to tackle the urgent need for additional research.

For example, in FY06, USDA ARS discretionary funds available for intramural fresh produce food safety research were only about $2 million. USDA CSREES has funded only about $2.5 million in extramural fresh produce food safety projects in the past 5 years. At FDA CFSAN, which in prior years has had discretionary funding available for targeted intramural and extramural food safety research, we understand that no money is now available for fresh produce food safety research.

Therefore research funding dedicated specifically to fresh produce food safety is a top priority of the produce industry. In particular, these funds could be distributed among the federal food safety research organizations which already have the appropriate infrastructure for further targeted distribution of the funds. These include:

- USDA ARS National Program 108 Food Safety that would be further distributed to ARS Research Centers and the National Alliance for Food Safety and Security. These entities already constitute the top U.S. researchers in the area of fresh produce food safety.
- USDA CSREES, distributed through National Research Initiative's Food Safety (32.0) and Epidemiological Food Safety (32.1) programs. This funding should be applied to the examination of microbial ecology and control as it relates to the introduction, spread and persistence of E. coli and other human pathogens in the production, processing and packaging of foods.
- Funding for FDA CFSAN could be utilized for laboratory and field food safety research related to areas in which FDA has greater historical understanding and involvement, such as post-harvest processing operations, transportation and distribution, and product handling at retail and foodservice operations. In addition the industry would support the establishment of the FDA Center Food Safety Excellence to be housed at the Western Institute for Food Safety and Security Center in UC Davis.

Finally, please allow me to raise one important point that may be beyond this Committee's purview, but is an essential issue for the Congress.

In looking at the impact of this outbreak, we believe a hugely important principle is at stake – companies must not be penalized for doing the right thing when asked by public health agencies. Legally, spinach growers and marketers that were not subject to this food recall were perfectly in their right to keep selling product. But,

they followed the direct request from FDA to help consumers avoid all spinach when it was unclear where contaminated product might be in the market. These companies – my company – suffered significant financial losses even though we were not in any way implicated in this outbreak.

How do I explain to my owners that all the expensive investments we've made in food safety in our own growing operations and processing plants did not prevent us from suffering the same losses as those directly implicated? This was a de facto recall across an entire industry, although the entire industry was not responsible for introducing contaminated food into commerce. And ironically, many companies in my industry appear not to be covered by insurance, simply because they were NOT part of the formal recall.

Many suggest that the extraordinary circumstances surrounding this outbreak should lead the Congress to compensate those who suffered extraordinary losses pulling safe and healthy spinach from the marketplace. There is ample precedent for compensating businesses when government action has forced an expensive private action in the sake of public health. We urge you to consider this important principle as well.

Conclusion

Mr. Chairman, one of the major lessons we must learn from this is that our entire industry faces this food safety challenge together. It should be abundantly clear that outbreaks don't just affect the one company who introduces product to the market, or one sector of the industry, or one single commodity, or one single region. Our entire industry is dependent upon our weakest link – our lowest common denominator.

Growers must realize that we are growing ready-to-eat products that are consumed raw. Processors must realize that due diligence means personally knowing your raw product has been grown to meet the highest agricultural standards, and then employing state-of-art-processing technologies. Retailers and foodservice companies must realize that food safety costs money, and when they want to buy safe foods, they must pay for safe foods. And consumers must count on the government and private sector to work together to bring the very best science available to ensuring food safety, without the false illusion that anything can ever be 100% without some risk.

We look forward to working with you and the Committee in the coming months as we constantly seek ways to enhance the safety of the food supply and bring Americans great tasting, healthy and safe fresh fruits and vegetables to improve their health.