



September 23, 2009

USDA's Agricultural Marketing Service  
Administrative Law Judge

**Re: Proponent Testimony for the Proposed National Leafy Greens  
Marketing Agreement No. 970**

My name is Laura Giudici Mills and I represent the fourth generation in the Giudici family to be involved in farming and agriculture in the Salinas Valley. I have been employed as the Director of Food and Workplace Safety for Metz Fresh, LLC the past two years. My work in the Central Coast agricultural industry began as a youth on my family's farm in San Lucas. Since 1985, my work experience has included produce sales, commodity management, agricultural – environmental consulting and food and workplace safety consulting for growers, grower-shippers and two non-profits – Central Coast Water Quality Preservation, Inc and the Salinas River Channel Coalition.

Our President, Andrew N. Cumming, currently serves on the CA LGMA Advisory Board and on the Board of Directors for both the Grower-Shipper Association of Central California and the CA Leafy Greens Research Board.

Metz Fresh, established May 30, 2000, handles only leafy greens and has growing and harvesting operations in both the Salinas, CA and Yuma, AZ growing regions. We are considered to be, based on SBA definitions<sup>1</sup>, a large grower/shipper and handler. Our ten growers, who grow our fresh spinach, spring mix and arugula crops and the majority of our freezer spinach crop, have operations that range in size from 100 land-acres to over 4,000 land-acres. These ten growers are also investors in our company and they all grow crops for other handlers. We contract with another six growers to grow the balance of our freezer spinach crops.

All of our primary growers are either second, third or fourth-generation family farmers. Only two of them employ a full-time food safety person in their operations. The other eight growers have utilized a combination of food safety consultants and/or their own personal time to develop, implement and manage their food safety programs.

<sup>1</sup> Handler – small is < \$7 million in cash receipts; Grower - <\$750,000 in cash receipts

Annually, Metz Fresh grows and harvests approximately 2,500 crop-acres of fresh leafy greens and approximately 1,200 crop-acres of freezer spinach. We contract with a co-packer to process, package and vacuum-cool and/or freeze our fresh and frozen leafy green crops.

Historically, leafy green handlers developed their own Good Agricultural Practices (GAP), Good Handling Practices (GHP) and/or Good Manufacturing Practices (GMP) programs utilizing existing FDA guidance documents and USDA programs. Prior to the implementation of the CA and AZ LGMA programs and even today, many handlers incorporate buyer requirements into their food safety programs. Often, these requirements are not science-based and only contribute to a false sense of security and added production costs. Driving factors behind these buyer requirements include product liability, brand protection and, in some cases, a competitive marketing advantage.

Metz Fresh has been a Signatory/Handler to both the California and Arizona Leafy Greens Marketing Agreements (LGMA) since 2007. While these are voluntary programs, the requirements of these LGMA are mandatory for all Signatories/Handlers. We grow, harvest and, when necessary, purchase, only leaf greens grown and harvested in compliance with the Commodity Specific Guidelines for the Production and Harvest of Lettuce and Leafy Greens (Metrics). These best practices are consistent, specific, measurable and verifiable in the field. The majority of the Metrics are science-based and on-going research allows for updating the Metrics, as needed. As a Signatory/Handler, we undergo both regular and unannounced audits based on the respective CA and AZ Audit Metrics and conducted by the CDFSA.

We do not expect our production costs to increase significantly as a handler under the proposed National Leafy Greens Marketing Agreement (National LGMA) since we have already made the necessary investments to comply with the CA and AZ LGMA programs. We don't anticipate the National LGMA would result in additional personnel, capital or testing costs. Metz Fresh already tests and holds every field lot of raw leafy greens product and every production lot of finished leafy greens product. I have examined the business case study financials prepared by Intertox and find them to be representative of the costs Metz Fresh and our growers have incurred and/or may incur under the National LGMA.

Our company has seen the LGMA programs in action and observed the improvements in on-farm process risk management following the September 2006 spinach E. coli outbreak. Immediately following the outbreak, we destroyed crops and suffered serious financial losses, together with our growers and our competitors, as retail and foodservice buyers and the consumer public lost confidence in our industry's ability to produce and deliver a safe product. We now promote the benefits of the LGMA programs to our employees, growers, customers and vendors: Standardized, science-

based best practices; reduced risk in growing and harvesting operations; increased buyer acceptance; and, increased consumer confidence.

We strongly believe that all growers and handlers, regardless of size, who produce and sell leafy greens commercially in the U.S., should comply with appropriate GAP, GHP and/or GMP programs. We recognize the provision in the USDA's Proposed Rule Section 970.72, "Exemptions" that could exempt from the National LGMA program leafy greens grown and/or handled by small farmers across the U.S. We believe doing so would defeat the primary purposes of the National LGMA: minimize the potential for microbial contamination in the production and handling systems and improve consumer confidence of fresh leafy green vegetables in the marketplace.

*Senior Food and Drug Administration (FDA) officials including Commissioner Margaret "Peggy" Hamburg visited small farms in Delaware September 18, 2009, as part of a fact-finding tour to learn more about produce safety, including traceability. That tour, planned by the PMA (Produce Marketing Association), included a town hall meeting with area growers. Luncheon discussion included the need to level the playing field by ensuring that food safety standards apply to all operators — "what's good for one is good for all," noted one tour participant. Several participants stressed the need for a risk-based approach, with one participant noting that when it comes to produce, "one program does not fit all." Small growers stressed that they would need extra help, which could range from education to grants. A state health official asked FDA to avoid unfunded mandates, which are a particular challenge for small states like Delaware.*

*Both Hamburg and Taylor stressed the agency's interest in hearing from and involving industry, including small operators, as the agency considers its future direction. Recognizing the value of the farm tours and listening session, FDA's Commissioner Hamburg said, "We're doing this because we know we need to listen and learn to do our job right. And doing our job right includes being sensitive to the concerns and circumstances of small-scale operators and organic growers. As I've said before everyone in the business of growing and selling food has a duty to make the food safe, but there is more than one pathway to that result. Our rules will be based on an adaptable set of preventive control principles. They will not be 'one-size-fits-all.' They will be scale appropriate." <sup>2</sup>*

Mr. Steve Etko, the National Organic Coalition and several others have testified there is an absence of data on small, local, organic and/or conventional growers and diversified farms to indicate they are responsible for any leafy greens food borne illnesses and/or related outbreaks.

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<sup>2</sup> PMA Press Release, September 22, 2009, [www.pma.org](http://www.pma.org)

Therefore, I recommend the USDA consider revising their existing AMS Microbiological Data Program (MDP) to focus their leafy greens sampling and pathogenic bacteria testing efforts at the point of production (farm) and/or initial shipment (packing shed and/or cooler). Currently, sampling is conducted at the point of wholesale or retail sales. This allows for cross-contamination to occur at several locations in the distribution chain after the leafy greens have been shipped by the grower/handler. The MDP should include all commercial leafy greens growers and handlers regardless of size (small, medium, large-scale), location (CA, AZ, local/regional/export), marketing style (farmers markets, Community Supported Agriculture -CSAs, retail, foodservice, etc. and conventional and/or organic operations.

Since February 2007, I have served on the Farm, Food Safety and Conservation Network's<sup>3</sup> Steering Committee. Several members of the Network have testified during these hearings, some in opposition and some in favor, with revisions, of the National LGMA. We encourage those in opposition to actively engage in the Audit Metrics development process. Metz Fresh fully supports this process and recognizes the value of having a diverse group of stakeholders involved in the process. In addition, we recommend the USDA Secretary appoint representatives of the U. S. Fish and Wildlife Service, NOAA's National Marine Fisheries Service and U. S. Environmental Protection Agency to the Technical Review Board and others deemed appropriate following this hearing process.

We respectfully request the USDA also consider including an educational requirement in the National LGMA for all leafy green handlers and their respective growers to include basic food safety practices (GAP, GHP and GMP) and conservation practices to protect public health, water quality, wildlife and habitat throughout the U.S. and countries who export leafy greens into the U.S. under the National LGMA. Existing organizations/agencies including the Natural Resources Conservation Service (NRCS), U.S. Environmental Protection Agency (EPA), land-grant universities/cooperative extensions, local Resource Conservation Districts (RCD), U.S. Fish and Wildlife Service and the National LGMA Technical Review Board or Advisory Board (TBD) could develop the curriculum and present the educational program to growers, handlers, buyers, USDA and third-party auditors and other appropriate/interested parties.

Our experience with the California and Arizona Leafy Greens Marketing Agreements has been very positive. Through the diligent efforts of our industry, the USDA, CDFA, AZ Dept. of Agriculture and the CA and AZ LGMA programs, buyer and consumer confidence in leafy greens has nearly been restored to pre-outbreak levels. Yet, we realize there is still work to be done.

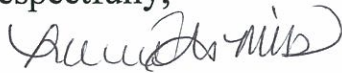
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<sup>3</sup> Network Fact Sheet

We expect the federal government to further regulate leafy greens in the U.S. within the near future. The FDA has the right to collaborate with USDA to regulate food quality and food safety for leafy greens. The USDA has already demonstrated the willingness to develop and implement the National LGMA program. We can build on the existing foundation USDA has with its QTV and GAP and GHP Audit Verification programs for the development of the National LGMA.

We wish to state for the record that Metz Fresh supports the National LGMA knowing it will bring the same standards to all companies growing, harvesting, handling, processing, selling and shipping leafy greens across the U.S. and in countries that export leafy greens to the U.S.

Respectfully,



Laura Giudici Mills  
Director of Food and Workplace Safety

## Farm, Food Safety, & Conservation Network (“Network”)

### Fact Sheet

Updated: August 1, 2009

The Farm, Food Safety, & Conservation Network (or “Network”) is a Monterey Bay region working group whose membership includes expertise from diverse fields, interests and talents to support food safety, environmental quality and agricultural viability using common sense and science based approaches.

#### MISSION:

The Network’s purpose is to facilitate the coordination of related organizations to support the agricultural industry’s efforts to reduce food safety risks through methods which also minimize or avoid impacts to water quality, wildlife and habitat through education, training, research, communication and outreach.

#### OBJECTIVE:

The Network recently formed four subcommittees to better organize and coordinate our efforts (described below). We invite you to participate in any of these committees to contribute your expertise and to learn more about their purpose and related activities by contacting the committee co-chairs listed below. Also through this network, you will receive regular email updates of the Network subcommittees’ activities. Please contact us to have your name added to our email/contact list.

Please direct general Network related questions to Lisa Lurie:

(831) 647-4219; [Lisa.Lurie@noaa.gov](mailto:Lisa.Lurie@noaa.gov)

#### Current Core Steering Committee Members:

- *Lisa Lurie, Monterey Bay National Marine Sanctuary (NOAA)*
- *Chris Fischer, The Nature Conservancy*
- *Jovita Pajarillo, US Environmental Protection Agency Region 9*
- *Jo Ann Baumgartner, Wild Farm Alliance*
- *Carol Presley, Santa Clara Valley Water District*
- *Kay Mercer, Central Coast Ag Water Quality Coalition*
- *Sam Earnshaw, Community Alliance with Family Farmers*
- *Andy Gordus, CA Dept. of Fish and Game*
- *Bill Stevens, National Marine Fisheries Service (NOAA)*
- *Daniel Mountjoy, Natural Resources Conservation Service (USDA)*
- *Jill Wilson, Central Coast Regional Water Quality Control Board*
- *Laura Giudici Mills, Metz Fresh*
- *AfreenMalik, Ocean Mist Farms*
- *Paul Robins, Resource Conservation District of Monterey County*