

# Food Safety Alert – 10/16/06

The *Monterey County Herald* has published an article delving into the future legal landscape of the Outbreak. Bill Marler, of the Marler Clarke law firm – which represents 93 people in this outbreak, estimates the damages at \$100 million. He is predicting that Natural Selection doesn't have enough insurance to cover the loss and as a result, Dole will have to cover the rest. Marler further speculates that Natural Selection will have to file bankruptcy to protect itself from Dole's indemnification claims. Natural Selection's spokeswoman Samantha Cabaluna, did not comment on NSF's insurance or legal positions.

The article further highlights previous methods of addressing the legal and financial implications of food poisoning cases. In the Green Onion litigation – Chi-Chi's CEO's choice to accept responsibility rather than blame suppliers, and to settle large groups of similar claims to expedite the process. In addition, in the Jack In The Box outbreak, the suppliers pooled their insurance to settle claims and then later addressed the issue of liability between themselves.

The article delves into the difficulties of collecting insurance funds for those growers and packers who are not implicated in this event. Under general liability policies, only those whose food items were tainted can collect. Very few growers and processors had product recall or contaminated products policies because of the expense in maintaining them. Additionally, collateral damages by industry members without liability are not covered by such policies.

On Oct. 27, Rep. Sam Farr, D-Carmel, plans to host a meeting in Salinas of researchers and industry leaders to discuss research needs and to prioritize them. The 2007 federal agricultural spending bill hasn't been approved, leaving open the possibility of squeezing out additional funding when Congress resumes in November.

<http://www.montereyherald.com/mld/montereyherald/news/local/15765495.htm>

The *Salinas Californian* is running an AP article which details the difficulties the farmers in the Imperial Valley are having in preparation for this season. Because of the outbreak, they are unsure how much Spinach demand there will be, and they are unable to decide at this point how much to plant.

<http://www.californianonline.com/apps/pbcs.dll/article?AID=/20061016/NEWS01/610160304>

In national headlines, Sens. Charles Schumer (D-N.Y.), Hillary Clinton (D-N.Y.), and Richard Durbin (D-Ill.) have rolled out a bill (AGAIN) that would subject raw-vegetable production to a regulatory regime similar to the one governing meat. Their proposal would create a unified Food Safety Administration, combining under one umbrella the USDA's jurisdiction over meat and poultry processing with the FDA's over vegetable production. The idea makes eminent sense -- if you're committed to preserving the industrial food system.

<http://www.investors.com/editorial/editorialcontent.asp?secid=1501&status=article&id=245543221143344>