FEDERAL FARM PROGRAM: UNINTENDED CONSEQUENCES OF FAV RULES

HEARING

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SUBCOMMITTEE ON REGULATORY REFORM AND OVERSIGHT

OF THE

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HOUSE OF REPRESENTATIVES

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CONTENTS

	Page
Hearing held on September 19, 2002	1

WITNESSES

Howell, Dave, President, Howell Farms, Middletown, IN	3
Reichart, Brian, President & CEO, Red Gold, Inc., Elwood, IN	5
Hartung, Dan, President, Hartung Brothers, Arena, WI	8
Palmby, Paul, Vice President of Manufacturing, Seneca Foods Corporation, Janesville, WI	9

APPENDIX

Opening statement: Pence, Hon. Mike	19
Prepared statements:	
Howell, Dave	22
Reichart, Brian	26
Hartung, Dan	31
Palmby, Paul	33
Additional information:	
Written Testimony of J.B. Penn, U.S. Department of Agriculture	37
Written Statement Ball Corporation	43
Letter to House Subcommittee on Regulatory Reform and Oversight from Curtis Linge, Chiquita Processed Foods, L.L.C	45
Letter to Subcommittee Chairman Pence from Randy Mott, Tip Top Canning Company	47
Letter to Subcommittee Staff Director Palmieri from William Gast, The Beckman & Gast Co	48

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THURSDAY, SEPTEMBER 19, 2002

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON REGULATORY REFORM
AND OVERSIGHT,
Washington, DC.

The committee met, pursuant to call, at 10:05 a.m. in room 2360, Rayburn House Office Building, Hon. Mike Pence (chairman of the committee) presiding.

Chairman PENCE. This hearing of the Committee on Small Business, Subcommittee on Regulatory Reform and Oversight having to do with federal farm program rules' effects on small growers is called to order.

I will have a brief opening statement. We do not anticipate the ranking member or other members joining us. But in the event that other members do participate on this busy Thursday, we will recognize members for any opening statements. Then I will recognize each of the witnesses beginning, I think, from right to left, and we will hear five minutes of remarks from each of the witnesses, and thereafter have a period of questions and answers.

The Farm Security in Rural Investment Act of 2002 not only ensures that aid reaches the right farmers, but that it reaches them in the right way. The law provides 'Hoosier' farmers and farmers across America with a strong safety net, and I was proud to support it, and proud to help draft it as a member of the House Agriculture Committee.

It increased average U.S. farm income by $4.5 billion per year according to independent analysis by the Food and Agriculture Policy Research Institute. Congress and the President recognized the difficulties that American farmers face both from unfair trade barriers in other countries and tough economic times here at home.

In voting for this landmark legislation and in helping to draft it, I remain confident that the farm bill will provide the necessary resources to keep family farmers in Indiana and across America competitive in a global marketplace.

Now, in stark contrast to this great achievement, we are here today to talk about some problems with the farm bill. Our hearing today addresses the unintended consequences of restrictions on growing fruits and vegetables. Now many of the 64,000 farms in Indiana were pleased to hear that soybeans were added as a program crop since soybean farmers have been particularly hard hit by these tough economic times. But what was not immediately ob-

vious was that by adding soybeans as a program crop large amounts of acreage would now be off limits for the planting of fruits and vegetables for processing, which, as we will no doubt hear today in my home state is a very significant industry as it is for much of the Midwest.

After the Freedom to Farm Bill in 1996, this restriction did have some impact on Midwestern production of fruits and vegetables and the rotation of crops, but it really was not until this year's farm bill that the consequences of this prohibition would be so dramatic.

We are still awaiting the U.S. Department of Agriculture's regulations on how this restriction will be implemented. The USDA can help to make sure that this will not be a death blow to fruit and vegetable production in the Midwest and well they should.

But even if the USDA does all that it can to help Midwestern fruit and vegetable growers, there will still be negative consequences if we do not make legislative corrections.

We have received written testimony from the Undersecretary for Farm and Foreign Agriculture Services, J. B. Penn, at the USDA. And it is submitted into the record without objection.

We are encouraged at this point to see that their statement is consistent with commitments the Undersecretary has made informally to this subcommittee and to its Chairman. Their full testimony will be included in the record and available to all interested parties.

My goal is to make sure that America's farmers and those in my home state of Indiana are able to have the degree of planting flexibility necessary to make a living, expand their business, and use an environmentally safe means of pest management by rotating crops.

Agriculture accounts for 13 percent of the nation's economy, and 17 percent of our nation's employment.

I might add parenthetically that the very vision of Freedom to Farm in 1996, a vision expanded on by the senior senator from Indiana, was a vision for flexibility. The idea that we would move American agriculture away from a top down command and control economy into an economy where the farmer would use discretion based upon the marketplace, we are not there perfectly, but it should remain the vision of every aspect of American agricultural policy.

At a time when we have come together to help this enormously important sector of our economy, I want to make sure we are not doing more harm than good.

I certainly look forward to the testimony of all of our witnesses and will reserve time at the close of the last presentation to ask a series of questions to each of the participants.

Before beginning testimony, I want to remind everyone that we would like you to keep your oral testimony to five minutes. Some of our witnesses have been here many times before, others are new, know that you need not be an hurry about getting through your testimony. Your written statement will be added in its entirety to the record without objection.

There will be a light in front of you that we grow accustomed to here on Capitol Hill. The green light means you are free to make your presentation. The yellow light does not mean speed up. It

warns you that it is getting close to wrapping up. The red light does mean that you should wrap up in an orderly way.

With that said, having just been notified of a vote on the House floor, we will go ahead and take the testimony of our first witness, and then the Chair will be excused for just a few moments while I return for what we understand to be one vote on the floor of the House.

Our first witness is Dave Howell who is president of Howell Farms in Middletown, Indiana. He has a Bachelor of Science and a Master of Science in agricultural economics from Purdue University and serves on the advisory council of the dean of agriculture there, and has one of the best farms for town hall meetings in the central part of the United States of America. And we acknowledge his hospitality. And Mr. Howell, you are recognized for five minutes.

[Mr. Pence's statement may be found in the appendix.]

STATEMENT OF DAVID W. HOWELL, OWNER, HOWELL FARMS

Mr. HOWELL. Good morning, Mr. Chairman and members of the committee. I am David Howell, a farmer from Middletown, Indiana. I am please to have the opportunity to share my thoughts and observations regarding potential negative consequences of the provision restricting the planting of fruits and vegetables, which is a part of the new farm bill.

My family and I grow a few thousand acres of traditional corn and soybeans as well as several hundred acres of fruits and vegetables for fresh market and for processing. Our business is made up of three separate sole proprietorships; one, my wife and I; two, our son Adam; and three, our son Aaron—doing business under the umbrella of Howell Farms.

We are still a small family farm operating at the level required to provide modest income for the three entitles. Adam is a graduate of Princeton University with a degree in economics. I am happy to say that he made the decision to make agriculture his full-time career after completing his studies.

Aaron, who is with me today, cutting classes, graduated from Texas A&M University last year, and is pursuing a master's degree in agricultural economics at Purdue. He currently farms 300 acres and plans to return to farming full time after graduate school.

They are both growth, efficiency and profitability oriented and understand well the need to expand our business. We derive approximately 50 percent of our gross revenue and an even larger percentage of the profits from fruit and vegetable production.

Unfortunately, the unintended consequences are frequently generated in geometric proportion to well-intended government regulations. Whether it is the FSA, the DOT, the EPA, the DNR, or the QPG, I cannot get out of bed in the morning without breaking someone's rules.

Last week we had $150,000 worth of tomato harvesting equipment impounded at a highway scale house for over 24 hours. We had the necessary permits, but two zealous DOT officers decided to measure our height, not from the top of the machine, but rather to the top of the removable wire, radio antenna, and then proceeded to argue that we voided our permit.

The last DNR employee I met clearly knew how to run his siren and red flashing lights but he was in hot pursuit of some burning grass. He had no clue how to pronounce carcinogen.

Barney Fife lives; he works for the government; and there are not enough Sheriff Taylors to keep him straight.

I understand at least partially the near-sighted protectionist attitude and the regional politics that brought about this major change in the FAV or fruit and vegetable rules which become part of the new bill. I truly believe, however, that the unintended consequences were not understood by most legislators when the act passed.

This act limits the entry of young farmers into business and threatens the success and possible expansion of existing producers. As it stands, I am being protected from my sons. They cannot enter FAV production. Adam will have only a small history of fruits and vegetables from the year 1996 to 2001, and Aaron has no history because he had no tomato contract and has only grown corn and soybeans.

To take the problem a step further, you may say, "Why don't I rent my ground to Adam or Aaron and let them use the farm history?" Well, this is only partially possible, but I am already competing with them for suitable rented land because my current land base has been intensively used for fruits and vegetables and needs to be rotated to other crops.

The only alternative is to not rotate, and thus be required to use higher and higher rates of insecticides, fungicides, bactericides, and still only achieve less than potential production.

You may also say, "Why don't we incorporate and then could share in the corporate operation?" Well, there are a number of reasons why this would not work, but the one relevant here is that with the new farm bill Adam and I both would lose our histories because—and the corporation would have no producer history at that point.

The act restricts diversification of exiting farms. Mary and I did not always raise fruits and vegetables. In the beginning, it was only the traditional Midwest corn, soybeans and hogs. In the early eighties, we found ourselves sucked into the mismanagement and near collapse of the Farm Credit System and nearly lost the farm. Had it not been for our ability to diversify and start producing fresh fruits and vegetables with the help of our children and selling our production with the help of their friends and multiple retail markets, I would not be here today in this role.

With the farm bill as it now stands, if that were to have happened today, we could not work ourselves out of our own problem. We could not go into FAV without losing our income from government subsidy.

Since the early eighties, diversification has been touted as the key to survival for the family farm and I would completely agree. That, however, is not what the new farm bill says. It says plant contract crops, corn, beans and wheat, or we will not support you. In fact, we will fine you for diversifying into other crops, and we will diminish the value of the land you farm by reducing revenue-generating crop bases on the land for your future years.

The act damages and limits the ability of older farmers to pass on their life's work, assets and experience. No one needs a $100,000 used tomato harvester and any of the associated equipment if the new people cannot start growing tomatoes. Instead of possible new producers needing to learn the keys and secrets of producing higher value fruits and vegetables crops, they need to learn how to play the government game.

Chairman PENCE. Mr. Howell, I will need to interrupt you at that point at the risk of being rude.

Mr. HOWELL. That is fine.

Chairman PENCE. About eight minutes remaining before I need to make it over to the House chamber, and these old bones do not move that quick.

So allow me to recognize the balance of your testimony will be entered as written in the record.

Mr. HOWELL. Fine.

Chairman PENCE. And I will also give you ample time to amplify any additional points in your testimony during the question and answer session.

Mr. HOWELL. Okay.

[Mr. Howell's statement may be found in the appendix.]

Chairman PENCE. I thank you for your testimony; very proactive and personal; exactly what we were hoping to add in the record today.

We will recess briefly. I should return in no more than 10 minutes, and I thank you for your indulgence.

[Whereupon, a recess was taken.]

Chairman PENCE. This hearing of the Subcommittee on Regulatory Reform and Oversight, the House Committee on Small Business will be reconvened, with appreciation for your patience. I do not anticipate another interruption from the floor prior to the end of the hearing, so we should be able to move expeditiously through both testimony and question and answers.

But having heard from the president of Howell Farms in Middletown, Indiana, the subcommittee will now hear from Brian Reichart, another "Hoosier" from the east central Indiana district that I have the privilege of serving. He is the president and CEO of Red Gold, Incorporated, which is a tomato processing company headquartered in Indiana.

Mr. Reichart has a degree in industrial management from Purdue University. He is past president of the Indiana Canner Association, and has served as a director of the National Food Processors Association since 1993.

And the committee also would gratefully acknowledge Mr. Reichart's efforts in bringing this issue as it affects farmers in our state in particular to the Chair's attention.

With that, Mr. Reichart, you are recognized for five minutes.

STATEMENT OF BRIAN REICHART, PRESIDENT AND CEO, RED GOLD, INC.

Mr. REICHART. Thank you, Mr. Chairman, for hosting this hearing today on these agricultural issues that affect many small businesses.

It is a great honor to represent my company and these growers behind me. We have come to lend our support in the midst of our harvest, to speak before you and bring attention to the unintended consequences of the 2002 Farm Bill as they relate to the fruit and vegetable processing business.

Well, my name is Brian Reichart, and I am president and CEO of Red Gold. I am proud to represent the third generation of my family in the tomato business. Red Gold is a full-time tomato manufacturing company with three processing plants, all of which are located in Indiana. We employ 1,200 full-time employees and 600 seasonal. Sixty traditional family farms throughout Indiana, western Ohio and southern Michigan grow Red Gold tomatoes in a favorable climate and soil, enabling us to grow a high quality food product.

With the passage of the Freedom to Farm Bill in 1996, our growers' ability to supply tomatoes was unimpeded because adequate acreage was available for fruits and vegetable production. With the rewriting of the new farm bill, it came to our attention that a severe problem for Midwest fruit and vegetable growers was at hand. The new farm bill added soybeans as a subsidized program crop. In states like Indiana where corn and soybeans are grown on nearly 100 percent of tillable acres, the majority of production land is entered into the federal program. Because of this prohibition in the law for planting fruits and vegetables, nearly all land becomes legislatively unavailable, unless a grower or landlord would choose to withdraw from the federal program permanently.

The new law and proposed USDA regulations provides avenues for growing fruits and vegetables on farms with a history or for growers with a specific crop history without penalty. Now, however, a critical, unintentional consequence occurred when no mechanism was included for us to replace growers due to natural attrition, to bring in new farms for rotational purposes, or for a way to allow new generations of family farms into the fruit and vegetable business.

Now, at Red Gold, 75 percent of our growers have farms representing two or more generations, and they have been supplying us tomatoes for up to 20 years or more. This cultural tradition could very well come to an end.

The canning industry must be agile and free to respond to demand-driven markets and to adjust supplies on an annual basis. We must also have availability to allow growers to be good stewards of the land and employ good integrated pest management practices, such as land rotation.

At Red Gold, we encourage our growers to raise only one crop of tomatoes on the same field every four to five years. We also need to be free to diversify growing regions to reduce production risk associated with drought or flood, even though it adds to the cost of higher freight.

Now, those who oppose our efforts to relieve restrictions for growing fruits and vegetables in the Midwest say they fear competition, fear subsidized competition. A point with which to make clear, we would like to make clear today is that we do not advocate growing fruits and vegetables on acres that receive a government payment.

We advocate a reduction in federal payments on an acre-for-acre basis planted to fruits and vegetables.

The processed food industry is responsible for hundreds of thousands of jobs in America. Within our coalition of can and frozen food processors in the Midwest, there are 20,000 direct full-time jobs, plus 10,000 seasonal jobs, and 10,000 growers. Losing established fruit and vegetable food processing companies out of the Midwest due to needless regulation will have a devastating impact to families and communities.

Restricting growers from entering into a profitable cash crop as an alternate to corn and soybeans is nothing more than protectionism at its worst. If growers are prohibited from growing fruits and vegetables, the void in supply would be filled by imports. Other countries are ready and eager to flood our markets with their fruits and vegetables.

The processed fruit and vegetable sector has adapted to these marketing challenges by reinvesting, keeping our costs low and becoming efficient. When left to our own abilities without undue government regulation such as these planting regulations, we are able to compete within the domestic market.

Diverse geographical regions are a necessary link in the food chain for safety, security and supply. Food terrorism risks increase as growing regions become more concentrated. The consequence of restricting production of fruits and vegetables in the Midwest will cause supply fluctuations and unacceptable food production risks as reminded by this year's drought-devastated areas.

In closing, I would like to reiterate that with this issue, what is good for growers is good for the food processing industry. Conversely, what is bad for growers is bad for the processing industry, and this restriction is bad for growers.

Planting restrictions in the new farm bill is unwarranted protectionism, severely harming a food processing business that has a long, traditional history of free enterprise in the central regions of our nation.

This situation could be relieved if the law were changed. Allow access to use base acreage for fruits and vegetables for processing on an acre-per-acre reduction in this program.

With your action, everyone will win by reducing government payments and ensuring a safe and affordable supply of nutritious food to the citizens and taxpayers of this great country. Growers and processors would then be free to use their talents in an atmosphere of efficiency, cooperation and true freedom to farm.

Thank you very much, Mr. Chairman.

[Mr. Reichart's statement may be found in the appendix.]

Chairman PENCE. Thank you. And the witness's entire statement, which I know you passed over sections to accommodate the time, will be added to the record without objection.

Next, the subcommittee will hear from Dan Hartung, I hope I am pronouncing that right, Dan.

Mr. HARTUNG. Yes, you did.

Chairman PENCE. Who is president of Hartung Brothers, Incorporated. He is a vegetable grower as well, and hails from the great State of Wisconsin.

And Mr. Hartung is recognized for five minutes.

STATEMENT OF DAN HARTUNG, PRESIDENT, HARTUNG BROTHERS, INC.

Mr. HARTUNG. Thank you. Thank you, Mr. Chairman.

My name is Dan Hartung, and I am the president of Hartung Brothers, Incorporated. Hartung Brothers is a raw product supplier for food processors located throughout the United States. We producer over 25,000 acres of snap beans, sweet corn, cucumbers for pickling, and carrots. We produce the above fruits and vegetables in Wisconsin, Illinois, and Texas, and all of our production is for processing—canning, freezing or brining. We do not do any fresh market sales.

I am here today to discuss the negative impact the 2002 farm bill will have on my business.

The previous farm bill, the Freedom to Farm Act, placed a restriction on planting fruits and vegetables on base acres. Under the act, soybeans were not program acres so the impact was more of an inconvenience to some of our land owners and growers, but for the most part did not affect our ability to get acreage for fruit and vegetable production.

Under the 200 farm bill soybeans are added as a program crop, and this will take away a large block of acres that is critical to us.

A large portion of our operation is producing early production for our processor customers ahead of their local crops. We do this by going to non-traditional fruit and vegetable production areas in central and southern Illinois, and produce crops two to three weeks earlier than our processors can do in their location production in Wisconsin, Michigan and Minnesota.

This acreage has traditionally gone on land that would have been planed to soybeans. Because of the penalties and restrictions on planting fruit and vegetables on program acres in the 2002 farm bill, it will in all likelihood wipe this portion of our business out or reduce it to a level that it would not be economical to operate.

Another ramification of adding soybeans as a program crop to the 2002 farm bill is attracting new acres for crop rotation. Snap beans and cucumbers are very sensitive to root disease and without the ability to attract new acres for rotation, we will be forced to apply more pesticide, thus raising production costs and increasing the potential to reduce the efficacy of the pesticides due to continuous applications.

I also see no way for a new landlord or grower to get into the business of growing fruits and vegetables. The penalties are just too great. This leaves us without any means of replacing retiring and/or poor producers.

I have no problem competing monetarily for acres with all the commodities. I can compete with the returns landlords and growers can receive including their government subsidies for program crops. What I can't compete with is the rules that put such a large penalty for growing fruits and vegetables on base acres.

I believe that an unintended consequence of the 2002 farm bill will be to increase soybean acres at the expense of processed fruits and vegetables. This will increase the cost to taxpayers for both program payments as well as increased costs for processed government.

Adding soybeans as a program crop will have a substantial negative impact on our business as well as many of our processing customers and the consumers who will ultimately foot the bill.

Thank you for your consideration.

[Mr. Hartung's statement may be found in the appendix.]

Chairman PENCE. Thank you, Mr. Hartung.

And finally, the subcommittee will hear from Paul Palmby, who is vice president of operations and agriculture for Seneca Foods Corporation.

Mr. Palmby has degrees in agricultural business and economics from Iowa State University, and we are grateful for your participation, and anxious for your remarks. You are recognized for five minutes.

STATEMENT OF PAUL PALMBY, VICE PRESIDENT OF OPERATIONS AND AGRICULTURE, SENECA FOODS CORPORATION

Mr. PALMBY. Thank you, Mr. Chairman.

I would like to sincerely thank you for the opportunity to be here today to speak on behalf of the Canned, Frozen Food and Grower Coalition and Seneca Foods about the impacts of the farm bill on our processing industry and its growers.

Seneca, with the majority of its plans in the Midwest, Wisconsin and Minnesota, contracts vegetable crops with approximately 2,000 growers in the Midwest, and those growers are essential to our success.

The Canned, Frozen Food and Grower Coalition represents virtually all of the processed vegetable production in the Midwest and has a sizeable contingent outside of the Midwest. The coalition represents a diverse segment of food industry from small farms and family-owned processing companies to multinational companies. In fact, the vast majority of canned vegetables sold in this country are represented by this coalition.

The late addition of soybeans as a program crop in the 2002 bill and the further establishment of bases for soybeans has dramatically changed the dynamics of fruit and vegetable production in the Midwest. Maintaining the penalties and restrictions on planting FAVs on program acreage established in the previous bill has and will continue to assure that program acreage cannot be planted to FAVs.

Prudently, Congress preserved in the statute significant discretion for USDA in implementation of the sign-up and penalty provisions of the programs. Although the department has not published final implementing regulations, our coalition is hopeful that it will follow through on prior indications to address some of the issues.

A number of concerns have been raised that flexible implementation by USDA would put the fresh fruit and vegetable industry at a competitive disadvantage. That simply will not happen. Fruits and vegetables grown for processing are to a large degree not suitable for fresh consumption. A processing tomato, for example, would not be considered desirable to consume as part of your dinner salad.

The attributes of processing sweet corn varieties are significantly different than those sold on the fresh market. Growers of vegetable for processing by contract must sell the vegetables to the processor

to be run in one of many of the plants located mostly in rural communities throughout the Midwest and processing crops are not diverted to fresh markets. Actually, the opposite is true.

Varieties are bred to maximize attributes that are desirable for processing and not fresh consumption. Sieve size, field yield, plant recovery, color, disease, and pest resistance are important attributes for processing.

These processing crops are simply alternatives for growers of more traditional corn and soybeans that dominate the Midwest. Generally speaking, the processor provides some of the inputs like seed as well as harvesting and hauling of the crop. This can be attractive for the young grower trying to become established with limited working capital as well as the established grower simply looking to diversify and defer a portion of his workload.

The problems: We see no plausible way for a new grower to begin growing FAVs under restrictions of the current bill. In addition, growers who have already made the decision to diversify in 2002 may be restricted—and who do not have previous farmer/producer history may be restricted from—to continue growing in 2003 without prohibitive economic impact. Out of our nearly 2,000 Minnesota, Wisconsin and Illinois growers, there are 92 such individuals.

Also, crops like sweet peas, green beans, and pumpkin require strict rotation to combat disease, the introduction of the new ground is essential to maintaining yield and minimizing increased needs for chemical applications. A question of new ground with new growers becomes all but impossible.

One example that I would like to share as a part of the testimony is a small group of growers in Scandia, Kansas that formed a co-op in July, partially from funds supplied by USDA, to start a small sweet corn processing plant. Many of these individuals now find themselves in the situation where they are 100 percent based and may not be able to continue to grow the vegetables for which they grew in 2002.

Farm policy has created negative implications to growing FAVs. The capitalized value of the government program itself has increased land cost for those acres having high bases. For those loyal processing fruit and vegetable growers who took advantage of the opportunity to diversify, reducing subsidized production, they now face reduced land value due to minimal bases and landlords who have realized the value of the farm program.

In conclusion, the unintended consequences of the addition of soybeans combined with already in place restrictions on growing FAVs presents a serious issue for Midwest growers and processors. USDA has announced that improvements to the original language of the farm bill are expected to be implemented as a result of our coalition's efforts to bring these issues to the department's attention.

Regrettably, there is only so much the department can do, and some of the yet unresolved fundamental issues that affect the growing of FAVs require congressional action. Our industry provides both vitally important and safe food as well as significant economic stability in the mostly rural areas that we operate. We

ask for your help in resolving these issues and request your assistance in removing this threat.

Thank you.

[Mr. Palmby's statement may be found in the appendix.]

Chairman PENCE. Thank you, and thank you to all of the witnesses for some very provocative testimony.

I have a couple of questions that I want to see if we can flesh out. It seems that there is a great deal of agreement on the panel about the impact that moving soybeans into the program crop status and the whole anticipated trouble, damages the structure will have. But I want to see if you can flush out that in a little more plain English, and particularly we will begin with Mr. Howell.

I know that when I reviewed your written testimony last night, you reflected on your farm in Brazil, and you made some fairly blunt assertions in your testimony about if the issue before this subcommittee is not addressed in the new USDA sign-up and penalty regulations that you could anticipate as someone who engages in farming in South America . . . you would anticipate that that market may well become more attractive to food processors and find itself more active in fruit and vegetables.

I guess my question would simply be to ask you, Mr. Howell, to elaborate on that. What would you see to be the time-line of that if everything remains status quo? And to what extent do we already face competition from those markets in FAVs?

Mr. HOWELL. Well, Mr. Chairman, I—maybe I am blunt by nature, I did not mean it as a threat certainly, and always will be proud to be an American, but economics simply work. And the fact that this happened in many of our other industries in this country, and agriculture is no different than those. It is not a black and white thing. It is not going to happen immediately. But I think this may very well be a watershed decision that brings about the start of a ball rolling or rolling a little faster.

And I think that not only this but for other reasons, it is inevitable that that will happen. As economies mature, I have a theory that I cannot back up with my formal training at this point, but as you look at the countries of the world and their economies, you go from the European countries that are very mature to ours in the middle that has done very well, and to the developing countries, there is an evolution of agriculture.

From subsistence it became—in Europe, it has become essentially entertainment and aesthetics, and all controlled. We are working that way. And in the process the real hard production oftentimes goes to the less developed and more free enterprise areas, and I think this may very well happen.

Chairman PENCE. Maybe I can ask that of Mr. Palmby. From your perspective at Seneca, what is the nature right now of the fruits and vegetables industry in The Americas and how much competition, how ready would our trading partners be to fill in any gaps that could ensue through this unintended consequence?

Mr. PALMBY. Mr. Chairman, in the—we currently already have significant competition in South America on, for example, processed asparagus. Asparagus can be brought in this country from South America as cheaply or more so than it can be produced in the Midwest. Thailand is a significant factor in the corn market. Canned

corn can be brought in from Thailand. And Canada is another area where we can bring peas and green beans competitively to the Midwest, and as costs continue to escalate as a result of these programs, that will only continue to become more and more.

Chairman PENCE. Mr. Reichart, in your testimony you describe among the Coalition of Can and Frozen Food Processors in the Midwest that there are 20,000 full-time jobs, 10,000 seasonal jobs, and 10,000 growers.

What do you expect the can and frozen food processor industry to look like in ten years from an employment and job's base if we stay on the track that we are on without some regulatory or legislative change?

Mr. REICHART. In my testimony, I explained that we were competitive, but we were competitive just within the United States. We feel that it is like the government is tying one arm behind our backs. We need to have good rotation practices to have good crops, maximizing yield, and quality. That is what the American people want.

We want to be able to make sure that we have new growers coming up. We want to be able to stay efficient, both on the farm and in the factory. Where else in the world can you get five cans of tomatoes or corn for a dollar? You know, bottled water is $1.25 in this town. We have done a good job.

In fact, I do not know of any other business in the United States that has done any better than the canned vegetable processing.

If this happens, I can just see that gradually a lot of our little advantages will be taken away from us. Right now, Italy can send tomatoes into the United States and back, all up and down the coast. They are a very big competitor of ours. Greece and China, right now, is in the process of building up their tomato industry.

We have not come to ask for help. We have come to ask to take the restrictions away. Let us do what we do well. We are Americans, and we believe in a free enterprise, and you have got farmers who, you know, there is no question of their abilities and their dedication, as well as the processors. We need your help.

Thank you very much.

Chairman PENCE. Mr. Hartung, you farm, I think, 25,000 acres I remember from the testimony with the Hartung Brothers, Incorporated.

And I am working from a conceptual model here to just ask you all to be thinking about what if nothing happens, and we will remain optimistic about outcomes, and I want to talk to you all about recommendations.

But what is the net effect if nothing changes for Hartung Brothers? Do you look to diversify overseas both with regard to planting, and would you anticipate processing facilities to move overseas as well?

Mr. HARTUNG. I think we will see some of that. I think there is really three issues. If nothing happens at all, there is going to be three really people that are going to be dramatically affected.

There is going to be the farmer that has never grown fruits and vegetables, and under this current situation he never will. I mean, the penalties are just too great. There is the guy, the grower that had previous history that he will be allowed to grow fruits and

vegetables by giving up a partial payment. He is going to have to weigh the value of the payments then against the value of what the vegetable contract is.

And then you have, which is really maybe the most important person here, is the landlord. The lion's share of our growers farm land that they do not know, and landlords right now are getting very active in the fact that they do not want to see their base, if it is a corn base, or now we are going to have a soybean base or whatever, they do not want to see that eroded. That in their mind brings value to that farmland. And by allowing their tenant to grow a fruit or vegetable that by some future farm bill would eliminate or reduce their base, a lot of them are just writing in their contracts you cannot do it. Even if they are "legal" to do it under the farm bill, the landlords, most of them are—a lot of them are elderly and so on, they just do not want to take any risk, and they are not going to take the exposure, and say "No, don't do it."

So we are going to have a number of our growers that are going to be restricted. It is not going to be a government restriction, it is going to be the landlord restriction to say, "I am not going to take the chance of my farm going down in value because you wanted to grow something today, and five years from now somebody picks a different set of years, and I am out base." That is where I see the real problem to be.

Moving a lot of this industry overseas or south into South America, that is going go to take a lot of time. I look at the immediate ramifications of how are we going to fill the needs for next year, and that is where I see the real problem.

Chairman PENCE. Let us follow up to understand you correctly. Even though if we do not repair the current penalty structure, even though certainly there would be the freedom to diversify, it may well be that in the context of the lease agreement many of the people you rely on for product——

Mr. HARTUNG. Absolutely.

Chairman PENCE [continuing]. No longer have the freedom within their own lease agreement to diversity in that way.

Mr. HARTUNG. That is correct.

Chairman PENCE. That is very insightful and very helpful to the record.

Mr. Howell, I will ask you this question. Not being in farming, and not having a background in farming, I think the initial reaction to the average citizen might be, well, why do you not just stay with the same average that you have in fruits and vegetables. And you brought up and several of the other witnesses brought up the importance and the criticality of rotation. The rotation thereby then exposing the farm to potential damages.

Maybe you would speak for the record to why is rotation critical, and why should it be addressed in the sign-up and penalty regulation?

Mr. HOWELL. Well, rotation is—we are all wanting to be good stewards of the land and the environment, and at the same time we are trying to make a living off the land. And as you repeat cropping, the same crop year after year, or closer than prescribed yields go down. Pest populations go up. Diseases go up. And the only way

to control or attempt to control that, is through increased uses of pesticides.

We are already under the gun, if you will, from using too many pesticides the way it is, and it just becomes an unmanageable situation. In the long run it is a food quality and safety and health issue.

Chairman PENCE. That is helpful.

Let me ask, Mr. Reichart, you made a comment having survived 23 hours of a markup in the farm bill on the Agriculture Committee. There was a statement in your testimony that I found provocative. You said that you wish to make clear today that we do not advocate growing FAVs on acres that receive a government payment. You might be the first person I have seen this year that was not asking for a government payment for an agricultural program.

And I know in your testimony you go on to say what you are advocating, and I wanted to start with you, with Mr. Reichart, and then I want to start with Mr. Palmby, get your specific recommendations.

As we know from the testimony submitted today, the USDA is knee deep in this process, and with representatives here and who will be combing over this testimony, this is a very unique opportunity to express what you think from a ground level makes sense with regard to the sign-up and penalty regulations.

So, Mr. Reichart, what are you advocating? What would you like to see happen?

Mr. REICHART. First of all, I think there is a lot of misconception of what we want, what we need, and what we are asking for is, basically, for processed fruits and vegetables under contract. We are not—and those are the items that we are looking for. And what we are asking is just that the penalty will be—the crop, whatever the penalty will be whatever the payment, government payment would be, and that will enable us to rotate crops, and continue doing—like you say, doing what we do well, and that would be for processed fruits and vegetables.

Chairman PENCE. It would be an acre-by-acre basis?

Mr. REICHART. Acre-by-acre, and the processed fruits and vegetables would be under contract to various canneries.

Chairman PENCE. Mr. Palmby, same question.

Mr. PALMBY. I would concur with that, and add that under the 1996 bill we have had available acreage to get the processing crops that we need. It is only the addition of soybeans and removing that block of acreage that restrict it.

So the ability for us to be able to plant FAVs on program acres or oil seed acres, in particular, would be sufficient to take care of the problem. And, you know, we have an immediate need of the 2002 growers that have already made the decision to diversify and under current rules may not be able to continue.

I would like to add one point on the rotation to Mr. Howell's testimony.

Chairman PENCE. Please.

Mr. PALMBY. For example, peas, you literally may only be able to grow four or five crops of peas on a piece of ground ever, and it is critical that we are able to rotate those crops around, and

make sure that we have a four-year or five-year rotation between the growing of those crops from root disease problems and whatnot. There is not a lot of research going on in that area to develop the root disease tolerance that you need. Peas, snap beans, pumpkins, they are all kind of in that area. The addition of new ground is critical.

Thank you.

Chairman PENCE. Thank you.

Mr. Hartung, same question.

Mr. HARTUNG. I just want to add a little bit to Mr. Reichart's. If we could get the processed fruits and vegetables to be able to be raised on soybean acres, the soybean base, with the giving up of the—well, I just want to make it clear that the grower would have to give up his payment for that soybean acre. We can compete with that.

But what the problem really is is that the penalty where he has to give up the entire gross compensation of his crop against his farm payment, if we can get that, I think we will be happy. I mean, we can—we will be back to the same standards we were in 1996.

Chairman PENCE. Right, right.

Mr. HARTUNG. Our papers would be available.

Chairman PENCE. Mr. Howell.

Mr. HOWELL. We do not want anything from the government in the form of money. We want to be able to go back to—we want an acre-for-acre reduction. Take that acre out of program crops, plant it in vegetables, and at the maximum that reduction in program payment be the penalty. And then we also need the recognition of several of the people, like the sweet corn growers in Kansas. And we need to address the dilemma of the 2002 production history not being recognized.

Chairman PENCE. A final question for the panel. As we talk about the impact on farmers and processors that are well represented here today, I wanted to also ask how the current posture and current law will affect consumers. And we obviously have a very active marketplace in fruits and vegetables in the United States, and I guess I probably would best direct my question to Mr. Palmby and Mr. Reichart on this.

How would—how would the status quo if we do not address these issues, both the 2002 issue and also the issue of the damages are associated with acre basis, how does that——

Mr. REICHART. As far as the consumer is concerned?

Chairman PENCE. How does that ultimately, whether it causes you to rely more on imports, what does that mean to the consumer of Red Gold products?

Mr. REICHART. Well, without a doubt, I think the prices of ground have gone up because of this bill, but we will live with that, and a lot of that is going to be passed on to the consumer. But I think what we are going to see is, if we are not able to farm efficiently, and if we are not able to process efficiently, the costs will continue to rise. You know, the prices in the markets—canned goods are a bargain. They have always been a bargain. And the beauty of a can—you know, that is one of the safest items in a grocery store.

When we talk about—unfortunately, when we talk about terrorism or any kind of tampering issues, canned food is the safest product. Next time you go into the grocery store just look and see what can be tampered with and what cannot. It is pretty scary. Thank goodness for the invention of the can.

But we will see prices move up, if our hands are tied behind our backs, and when prices rise high enough, foreign imports will definitely come in, and we pay a lot of taxes. I think that is going to hurt the communities.

A lot of the factories are located in small communities. All three of our plants are in small towns, and all three of those towns are having a hard time trying to attract people. The towns are on either a status quo or decline. They count on the employees of Red Gold; the taxpayers that work at the plant, to, you know, provide the taxes. So, we are talking about major issues here, not only to the consumer, but to communities where these plants are and where the farmers have their farms.

Thank you.

Chairman PENCE. That is a very worthy addition to the impact that the business has—that processors have on their communities, but I was especially interested in what inflationary impact might be.

And with Seneca Foods, have you run any models on what the potential impact—I assume you have—if the regs were to go in the direction that we hope they do not go?

Mr. PALMBY. We have looked at it, and had many discussion and are trying to formulate what we think the outcome will be. We have definitively concluded that there is no alternative for us but to go greater distances to contract the crops, take less suitable land than what we might otherwise do, move production to other parts of the country that are not so heavily impacted by corn and soybean base acres. Specifically, plants in areas that have high soybean and corn acreages may be impacted—will be impacted much greater than plants that have other free acres so to speak.

You know, canned vegetables, as Mr. Reichart indicated, and we have looked at and tracked this. You can go back into the early eighties and find that the cost of canned vegetables have not increased over that time. Processors have been able to become more efficient, and offset inflationary pressure and have been very successful at that.

Having said that, our industry as a whole is not a healthy industry. There is no one making tremendous amounts of money, and in fact both large and small companies in the canned food industry in the Midwest have gone out of business in the past couple of years.

So we just feel that this will be the final death blow to some folks. It is a very distinct disadvantage to those growers that have been loyal vegetable growers, and now find themselves not with the kind of bases that they would have otherwise had had they grown vegetables, or I should say grown program crops.

And the landlord issue and the perception that future farm bills will only favor program crops is a real issue. We have got growers that are already being told that landlords will not allow the production of those crops on those lands. And there is no other alternative but to become more efficient, or more inefficient.

We also will have to do things like where we can farm ourselves competing with local growers for land, and not having it as part of the program. We do farm in a small way in central Wisconsin, and that would have to be increased to try and pick up those acreage.

So the impact is very difficult to quantify at this point, but we feel strongly that it is absolutely there, and will incrementally get worse as time goes on and attrition occurs with the growers overtime.

Thank you.

Chairman PENCE. Lastly, I wanted to give Mr. Howell and Mr. Hartung a chance to speak to one other issue.

In your testimony, Mr. Howell, you made the assertion that the act damages and limits the ability of older farmers to pass on their life's worth, assets and experience, and presumably because of the history requirements that come with and also the—I would assume that would be the—as you go on to say—the less people that there are in fruits and vegetables the less the assets that any particular farming operation owns are worth.

But I thought that I might simply leave that with you and Mr. Hartung any comments that you might make with regard to the negative effect of the current posture in the law relative to keeping the family farm vibrant and strong and something that will continue to be inter-generational in our communities.

Mr. Howell.

Mr. HOWELL. Mr. Chairman, the used harvest equipment example in the testimony is really clear cut. If there are not new growers coming in or young growers coming in, it has no value. That is not a major thing in that they can—they can get over it.

I guess the things that we have heard down the line is that there is a big problem already over the definition of the family farm. But almost everything you have heard down the line is that this current writing of unintended consequence of the Farm Bill is going to force bigger and bigger, and I am not opposed necessarily to bigger and bigger, but it is going to take fruit and vegetable production, agriculture out of the family farm context with my boys. It presents the problems of how do you bring them in under any system. And so it is a—it is a structural change that is a watershed event.

Chairman PENCE. Thank you.

Mr. Hartung, the same question.

Mr. HARTUNG. Well, I—our corporation is—I have got six brothers and two sisters that are involved in the business, and there is 29 grandchildren, so I am not just sure how things are going to work out down the road. But I can see it being a pretty difficult situation here for people that are close to retirement right now, that want to try to figure out how to get their sons and daughters involved in their business.

And under the example Mr. Howell put in his testimony, it is going to be very difficult. It is going to take a lot more creative thinking than I guess we have come across in the last two days visiting on this issue of how to do some of those things.

And the other—maybe the other thing I just want to touch on is your consumer issue. I am a consumer and I am a taxpayer, and it looks like to me I am going to get it from both ends. I am going

to have to pay the taxes to pay the soybean subsidy, and I am going to have to go to the grocery store and pay higher prices for fruits and vegetables. I am thinking that is going to be a bad deal all around. Nobody is going to win.

Chairman PENCE. You left out you might also have to pay the damages and penalties.

Mr. HARTUNG. Yeah. Yeah. It is not going to be a good day.

Chairman PENCE. Yes, not a good day.

Well, I want to compliment all of our witnesses today. This has been enormously helpful not only to the subcommittee, but I am very confident, to those that will review this record in great detail in other parts of the city.

We all are still waiting for the USDA's regulations on how these restrictions will be implemented. And while this Chairman is encouraged at what seems to be the course and direction of those deliberations, our intention is to continue both from the standpoint of the subcommittee and maybe even in the form of legislation to aggressively seek to address this issue and to head off the negative consequences for consumers, for farmers, for important processing firms that are staples of communities, not just those of which I represent, but communities all over the heartland of America that have relied for generations on these great companies that provide a great quality of life for their employees and are important corporate citizens in their community.

I would remind you that we have received written testimony from the Undersecretary for Farm and Foreign Agricultural Services, J. B. Penn at the USDA, and our witnesses can contact the subcommittee for copies of that testimony.

And let me just say again that I think the most powerful statement that was made today from several of the witnesses was that here is a group of plaintiffs to the federal government, citizens all, who are not asking for anything but simply asking that the farm bill as conceived in its new form in 1996 would simply be preserved; that the vision of Freedom to Farm with regard to fruits and vegetables would be preserved, and that is a vision that I embrace wholeheartedly. It is a long-term vision of mine not only as a Chairman of a regulatory subcommittee on small business, and farms are small businesses in America, but also it is a vision that embraces as a member of the House Agriculture Committee.

And your testimony today has equipped me in a very meaningful way to make—make this argument and to be an advocate from this position on behalf of this reform. So we will gavel this hearing to a close, believing that the right people are listening, and we will do so grateful for your testimony and your willingness to come to our nation's capitol and participate in the process.

This hearing is adjourned.

[Whereupon, at 11:21 a.m., the subcommittee was adjourned.]

Statement of Mike Pence
Chairman
Subcommittee on Regulatory Reform and Oversight
Committee on Small Business
United States House of Representatives
Washington, DC
September 19, 2002

The Farm Security and Rural Investment Act of 2002 not only ensures that aid reaches the right farmers, but that it reaches them in the right way. The law provides Hoosier farmers and those across America with a strong safety net, increasing average U.S. farm income by $4.5 billion per year according to an independent analysis by the Food and Agriculture Policy Research Institute. Congress and the President recognized the difficulties American farmers face, both from unfair trade barriers in other countries and tough economic times in the United States. In voting for this landmark legislation, I was confident that the Farm Bill would provide the necessary resources to keep farmers in Indiana and across America competitive in a global marketplace.

Now in stark contrast to this great achievement, we are here today to talk about some problems with the Farm bill. Our hearing today addresses the unintended consequences of restrictions on growing fruits and vegetables. Now many of the 64,000 farms in Indiana were pleased to hear that soybeans were added as a program crop, since soybean farmers have been particularly hard hit by these tough economic circumstances.

What wasn't immediately obvious, however, was that by adding soybeans as a program crop, large amounts of acreage would now be off limits for the planting of fruits and vegetables for processing. After the Freedom to Farm bill in 1996, this restriction did have some impact on Midwestern production of fruits and vegetables and the rotation of crops. But it wasn't until this year's farm bill that the consequences of this prohibition would be so dramatic.

We are still awaiting the U.S. Department of Agriculture's regulations on how this restriction will be implemented. The USDA can help to make sure that this will not be a death blow to fruit and vegetable production in the Midwest. But even if the USDA does all that it can to help Midwestern fruit and vegetable growers, there will still be negative consequences if we do not make some legislative corrections. We have received written testimony from the Undersecretary for Farm and Foreign Agriculture Services, J. B. Penn at the USDA. We are encouraged to see that their statement is consistent with commitments the Undersecretary has made to us. Their full testimony will be included in the record of this hearing.

My goal is to make sure that America's farmers and those in my home state of Indiana are able to have the degree of planting flexibility necessary to make a living, expand their business, and use an environmentally safe means of pest management by rotating crops.

Agriculture accounts for 13% of our nation's economy and 17% of our nation's employment. At a time, when we have come together to help this enormously important sector of our economy, I want to make sure that we are not doing more harm than good to certain parts of it.

I look forward to the testimony of all our witnesses. Now we'll hear from the Ranking Member, Congressman Brady of Pennsylvania.

TESTIMONY

Before the

COMMITTEE ON SMALL BUSINESS
Of the
UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE
ON REGULATORY REFORM AND OVERSIGHT

Regarding

FEDERAL FARM PROGRAMS: UNINTENDED CONSEQUENCES OF FAV RULES

Submitted by

DAVID W. HOWELL
FARM OWNER AND OPERATOR

September 19, 2002

Good morning Mr. Chairman and members of the Committee. I am David Howell, a farmer from Middletown, Indiana. I am pleased to have the opportunity to share my thoughts and observations regarding potential negative consequences of a provision restricting the planting of FAV, which is part of the Farm Security and Rural Investment Act of 2002.

My family and I grow a few thousand acres of traditional corn and soybeans as well as several hundred acres of fruits and vegetables for fresh market and for processing. Our business is made up of three, separate, sole proprietorships; one, my wife and I; two, our son Adam; and three, our son, Aaron - doing business as Howell Farms. We are still a small, family farm operating at the level required to provide modest income for the three entities. Adam is a graduate of Princeton University with a degree in Economics. I am happy to say he made the decision to make agriculture his full-time career after completing his studies. Aaron, who is with me today, graduated from Texas A&M University last year and is pursuing his master's degree in Agricultural Economics at Purdue. He currently farms 300 acres and plans to return to farming full-time after graduate school. They both are growth; efficiency and profitability oriented and understand well the need to expand our business. We derive approximately 50% of our gross revenue and an even larger percentage of the profits from Fruit and Vegetable production.

Unfortunately, unintended consequences are frequently generated in geometric proportions to well-intended government regulations. Whether it is the FSA, DOT, EPA, DNR, or the QPG, I cannot get out of bed in the morning without running into the unintended consequence of somebody's regulations.

- Last week we had $150,000 worth of our tomato harvesting equipment impounded at a highway scale house for over 24 hours. We had the necessary permits, but two zealous DOT officers decided to measure our height, not to the top of the machine, but rather to the top of a removable, wire, radio antenna and then proceeded to argue that this voided our oversize load permit.
- The last DNR employee I met clearly knew how to operate his siren and red flashing lights in hot pursuit of some burning grass, but had no clue how to pronounce the word, carcinogen.

Gentlemen, Barney Fife lives, and he works for the government, and there are not enough Sheriff Taylors around to keep him straight.

I understand, at least partially, the near-sighted, protectionist attitude and the regional politics that brought about this major change in the FAV rules which became a part of the 2002 FSRI Act. I truly believe, however, that the consequences were not clearly thought through or understood by most legislators when the Act was passed.

This Act limits the entry of young farmers into the business and threatens the success and possible expansion of existing producers. As it stands, I am being protected from my sons. They cannot enter FAV production. Adam will have only a small history of FAV production from the years under the prior Farm Bill (1996-2001) and Aaron has no history because he had no tomato contract and has only grown corn and soybeans. To take the problem a step further, you may say, "Why don't I rent my ground to Adam and Aaron and let them use the farm history?" This is partially possible, but I am already out competing with them for suitable rented land because my current land base has been intensely used for FAV and needs to be rotated to other crops. The only alternative is to not rotate, and thus be required to use higher and higher rates of insecticides, fungicides and bactericides and still achieve production that is well below the land's potential. You may also say, "Why don't we incorporate and they could share in the corporate operation?" There are a number of reasons why this would not work, but the one relevant here is, in that plan, Adam and I would both loose our histories. The corporation would have no history.

The Act restricts diversification of existing farms. Mary and I did not always raise fruits and vegetables; in the beginning, it was only the traditional Midwest, corn, soybeans and hogs. In the early 80's we found ourselves sucked into the mismanagement and near collapse of the Farm Credit System and nearly lost our farm. Had it not been for our ability to diversify and start producing fresh fruits and vegetables with the help of our children and selling our production with the help of their friends in multiple retail markets, I would not be here today in this role. With the Farm Bill as it now stands, we would not have been able to save ourselves from foreclosure, bankruptcy and liquidation if the same thing happened to us today.

Since the early 80's diversification has been touted as the key to survival of the family farm and I would completely agree. That, however, is not what the new Farm Bill says. It says plant contract crops, corn, beans or wheat, or we will not support you. In fact we will fine you for diversifying into other crops and we will diminish the value of land you farm by reducing revenue generating crop bases on your land for future years.

The Act damages and limits the ability of older farmers to pass on their life's work, assets and experience. No one needs a $100,000 used tomato harvester and any of the associated equipment, if they cannot start growing tomatoes. Instead of possible new producers needing to learn the keys and secrets to producing higher value FAV crops, they will need to learn how to play the government payment game.

This Act damages and limits the landowner. The Farm Bill as it stands, threatens the landowners' asset as well as the value and earning power of the land. It prevents competitive bidding for the lease of the land for FAV from honorable producers. It presents the possibility for less than honorable FAV producers to rent land from unsuspecting land owners, plant FAV and lower the crop bases and earning power on that farm for future years. Eventually, it will drive more and more agricultural land owners to look for non-agricultural uses for their land, further reducing our country's invaluable agricultural land base.

In our community, we have a music teacher near retirement age. She and her brother both live on third generation farmland they inherited. Early last summer she called asking for help. Through her tears, she explained that they were about to lose their farm due to bad decisions, some questionable legal advice and the mismanagement of a part-time farmer tenant. Although the farm's topography does not lend itself to large grain cropping equipment, it would be very suitable for melon and pumpkin and some other FAV production. We could justify paying enough rent compared to a corn/soybean tenant, to help her generate the cash to save her farm. Given the new Farm Bill rules on her farm with no FAV history, it is doubtful that we can help her – it is certain that neither Adam nor Aaron could help without a personal history of FAV production.

Clearly these unintended, or possibly intended, FAV rule changes are protectionist. They will damage the Midwest canned and frozen food industry, and gradually the entire industry because California will not feel the pressure from the Midwest to maintain their competitive edge. Ultimately, it will damage consumers through higher prices and the country's food security network. First, through concentrating production regionally and ultimately losing the industry to other countries.

We are in a global economy. We hear it said every day. Contrary to the "head in the sand" thinking of many, the U.S. is not the only place in the world with bountiful, productive, cropland, nor do we have the corner on the entrepreneurial spirit. You cannot continue to tighten the noose of regulation, religious environmentalism (or well intentioned, yet often misguided environmentalism) and counter-economic protectionism and expect good things to happen.

Our family has acquired a small foothold of farmland in Brazil over the last four years. This Summer, we have acquired the machinery and inputs necessary and this Fall, we are going to plant our first crop of soybeans. We know there will be difficult problems and obstacles ahead, but I'm here to tell you that the U.S. has legislated and regulated away its competitive advantage in soybeans. Livestock can go. Fresh fruits and vegetables are going, too. Look at Chile and Mexico. Processing fruits and vegetables can follow. The area of Brazil we are in is very "San Joaquin Valleyesque". We know how to grow a pretty good tomato. We are proud to be Americans and will always be but, give us a few years and I'll just bet we can get those tomatoes in a can and get them distributed to the U.S. from South America.

Members of the committee, you have time to change the rules to avoid the unintended, or intended, protectionist, consequences of the FAV plantings on soybean base acres. We urge you to take the appropriate action.

Thank you.

TESTIMONY

Before the

COMMITTEE ON SMALL BUSINESS
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SUBCOMMITTEE
ON REGULATORY REFORM AND OVERSIGHT

Regarding

FEDERAL FARM PROGRAMS:
UNINTENDED CONSEQUENCES OF FAV RULES

Submitted by

BRIAN L. REICHART
PRESIDENT AND CEO, RED GOLD, INC.

SEPTEMBER 19, 2002

Thank you, ladies and gentlemen, for hosting this hearing today. It is a great honor to represent my Company and these growers, who have come to lend their support in the midst of our harvest, to speak before you and bring attention to the unintended consequences of the 2002 Farm Bill as they relate to the fruit and vegetable (FAV) processing business.

My name is Brian Reichart, and I am the President and CEO of Red Gold. I am proud to represent the third generation of my family in the tomato business. Red Gold is a full-line tomato manufacturing company with three processing plants, all of which are located in Indiana, employing 1,200 full time employees and six hundred seasonal employees. Sixty traditional family farms throughout Indiana, western Ohio and

southern Michigan grow Red Gold tomatoes in a favorable climate and soil, enabling us to grow a high quality product.

With the passage of Freedom to Farm in 1996, our grower's ability to supply tomatoes was unimpeded because adequate acreage was eligible for Fruit and Vegetable production. With the rewriting of the new Farm bill, it came to our attention that a severe problem for Midwest FAV growers was at hand. The new Farm Bill added soybeans as a subsidized program crop. In states like Indiana where corn and soybeans are grown on nearly 100% of tillable acres, the majority of production land is entered into federal programs. Because of the prohibition in the law for planting FAVs, nearly all land becomes legislatively unavailable unless a grower or landlord would choose to withdraw from the Farm Program permanently.

The new law and proposed USDA regulations provides avenues for growing FAVs on farms with a FAV history or for growers with a specific crop history, without penalty. However, a critical, unintentional consequence occurred when no mechanism was included for us to replace growers due to natural attrition, to bring in new farms for rotational purposes, or for a way to allow new generations of family farmers into the FAV business. At Red Gold, 75% of our growers have farms representing two or more generations and have been supplying tomatoes for 20 or more years. This cultural tradition could very well come to an end.

The Canning Industry must be agile and free to respond to demand-driven markets and to adjust supplies on an annual basis. We must also have the ability to allow growers to be good stewards of the land and employ good IPM (Integrated Pest Management) practices, such as land rotation. At Red Gold, we encourage our growers

to raise only one crop of tomatoes on the same field every four or five years. We also need to be free to diversify growing regions to reduce production risks associated with drought or flood, even though it adds to our costs through higher freight expenditures.

Those who oppose our efforts to relieve restrictions for growing FAVs in the Midwest say they fear subsidized competition. A point we wish to make clear today is that we *do not* advocate growing FAVs on acres that receive a government payment. We advocate a reduction in federal payments on an acre-for-acre basis planted to FAVs.

The processed food industry is responsible for hundreds of thousands of jobs in America. Within our coalition of canned and frozen food processors in the Midwest, there are 20,000 direct full-time jobs, plus 10,000 seasonal jobs, and 10,000 growers. Losing established FAV food processing companies out of the Midwest due to needless regulation would have a devastating impact to families and communities.

Restricting growers from entering into a profitable cash crop as an alternative to corn and soybeans, is nothing more than protectionism at its worst. If growers are prohibited from growing FAVs, the void in supply would be filled by imports. Other countries are ready and eager to flood our market with FAVs.

The processed FAV sector has adapted to market challenges by reinvesting, keeping costs low and becoming efficient. When left to our own abilities without undue government intervention such as these planting restrictions, we are able to compete within the domestic market.

Current law implies that the fresh FAV industry requires protection from the processed FAV industry. This is simply not true. The fresh and processed food industries are each unique in their practices, varieties and markets, but both are important

links in the food chain providing nutritious and affordable produce for the consuming public. Growing tomatoes for processing is not an easy-in, easy-out proposition. As a processor, we must establish long-term relationships with our growers as evidenced by our multi-generation grower base. The processing tomato business requires large capital investments in equipment, high management skills, and plenty of hard work. At Red Gold, we are proud of our growers, as they are an important part of the team that has contributed immeasurably to the success and growth of the Company. While similar in some ways, the fresh and processed industries are vastly different in others. Because of these differences, lumping all FAVs together under the same law is impractical. These two industries do not need protection from each other, but rather the ability to perform at their maximum potentials.

Growing tomatoes offers farmers an alternative, high-value cash crop during a period when grain growers are desperately searching for ways to keep their family farms alive. The USDA supports and promotes diversification into specialty FAV crops as a means of saving traditional family farms and keeping them economically viable. That agency now finds itself in the untenable situation of restricting the very diversification it encourages.

Diverse geographic growing regions are a necessary link in the food chain for safety, security and supply. Food terrorism risks increase as growing regions become more concentrated. The consequences of restricting production of FAVs in the Midwest will cause supply fluctuations and unacceptable food production risks as reminded by this year's drought devastated areas.

A critical shortcoming that proponents of restricting FAV production have failed to mention, is that losing program bases as a result of past FAV production leaves a farmer with no alternative. Therefore, when the need arises for a farmer to exit the FAV growing business for any reason, he or she is faced with no economically viable solution. There will be no base history available with which to re-enter the government programs, as row-crop farmers or in retirement as landlords.

In closing, I would like to reiterate that with this issue "What is good for growers, is good for the food processing industry". Conversely, "What is bad for growers is bad for the processing industry", and this restriction is bad for growers!

Planting restrictions in the new Farm Bill is unwarranted protectionism, severely harming a food processing business that has a long, traditional history of free enterprise in the central region of our nation.

The situation would be relieved if the law were changed. Allow access to use base acreage for FAVs for processing on an acre-for-acre reduction in program payments.

With your action, everyone will win by reducing government payments and ensuring a safe and affordable supply of nutritious food to the citizens and taxpayers of this great country. Growers and processors would then be free to use their talents in an atmosphere of efficiency, cooperation and *true* freedom to farm.

Thank you.

9/19/02

Testimony
Committee on Small Business
Subcommittee on Regulatory Reform and Oversight

Mr. Chairman / Honorable Members of the Committee

My name is Dan Hartung. I am President of Hartung Brothers, Inc. Hartung Brothers, Inc. is a Raw Product Grower and Supplier for food processors located through out the United States. We produce over 25,000 acres of snap beans, sweet corn, cucumbers (for pickling) and carrots. We produce the above FAV's in Wisconsin, Illinois and Texas. All of our production is for processing (canning, freezing or brining) and we do no fresh market sales.

I am here today to discuss the negative impact the 2002 Bill will have on my business.

The previous Farm Bill, "Freedom to Farm Act", placed a restriction on planting "Fruits and Vegetables" (FAV's) on base acres. Under the Act, soybeans were not program acres so the impact was more an inconvenience to some of our landlords/growers, but for the most part didn't affect our ability to get acreage for FAV production.

Under the 2002 Farm bill soybeans are added as a program crop. This will take away a large block of acres that are critical to us.

A large portion of our operation is producing early production for our processor customers ahead of their local crops.

We do this by going to non-traditional FAV's production areas in Central and Southern Illinois and produce crops two to three weeks earlier than the processors can do in their local production areas in Wisconsin, Michigan and Minnesota.

This acreage has traditionally gone on land that would have been planted to soybeans. Because of the penalties and restrictions on planting FAV's on program acres in the 2002 Farm Bill it will in all likelihood wipe this portion of our business out or reduce it to a level that it would not be economical to operate.

Producer of Quality Seed Corn, Processing Vegetables and Fertilizer
6813 Helena Road, Arena, Wisconsin 53503, Telephone 608-588-2536 Fax 608-588-7663 www.hartungbrothers.com

Another ramification of adding soybeans as a program crop to the 2002 Farm Bill is attracting new acres for crop rotation. Snap beans and cucumbers are very sensitive to root diseases and without the ability to attract "New Acres" for rotation we will be forced to apply more pesticides, thus raising production costs and increasing the potential to reduce the efficacy of the pesticides due to continuous applications.

I also see no way for a new Landlord / Grower to get into the business of growing FAV's. The penalties are just too great. This leaves us without any means of replacing retiring and or poor producers.

I have no problem competing monetarily for acres with all the commodities. I can compete with the returns Landlords/Growers can receive including their government subsidies for program crops. What I can't compete with is rules that put such a large penalty for growing FAV's on base acres.

I believe that an unintended consequence of the 2002 Farm Bill will be to increase soybean acres at the expense of the processed FAV's acres. This will increase the cost to taxpayers for both program payments as well as increased costs for processed FAV's.

Adding soybeans as a program crop will have a substantial negative impact on our business as well as on many of our Processing Customers and Consumers who will ultimately foot the bill.

Thank you for your consideration.

Sincerely

Dan Hartung
President

Testimony
Committee on Small Business
Subcommittee on Regulatory Reform and Oversight
Thursday, September 19, 2002
10:00 am Rayburn HOB 2360-2361
Honorable Mike Pence R-IN, Dist. 2, Chairman

Mr. Chairman / Honorable Members of the Committee

I would like to thank you for the opportunity to be here today as a representative of the Canned, Frozen Food and Grower Coalition and Seneca Foods Corporation to discuss the impacts of the 2002 Farm Bill on the vegetable processing industry and its growers.

My name is Paul Palmby. I am Vice President of Operations and Agriculture for Seneca Foods Corporation. Seneca Foods is the largest processor of canned vegetables in America with 14 processing plants mostly in Wisconsin and Minnesota. We process over one and a half billion cans of sweet peas, green beans, sweet corn and other vegetables each year.

Previous Farm Bills established base acres for corn determined by historical planting of the crop and further restricted permitted crop growth in order to be able to participate in the Farm Program. The remainder of the acreage not in the program was then eligible to be planted into any crop the farmer desired and the base acres could be planted to any program crop and thus the historic name for the bill, "The Freedom to Farm Act". A largely unnoticed insertion to the bill was the restriction for any farmer to plant "Fruits and Vegetables" (FAV's) on base acres. In most situations, the established bases still allowed Midwest processors enough flexibility to contract with growers to plant vegetables under contract for processing in desired quantities to meet consumer demand. Although the establishment of the corn base made this large block of acreage unavailable for FAV's there were enough non-program acres to allow growers to raise processing FAV's. As well as allow for necessary rotations, expansion of farm operations to improve efficiency and the diversification of farm income into these non-subsidized crops.

The late addition of soybeans as a program crop in the 2002 Farm Bill and the further establishment of bases for soybeans has dramatically changed the dynamics of FAV production in the Midwest. Maintaining the penalties and restrictions on planting FAV's on program acreage, established in a previous Farm Bill, has and will continue to assure that program acreage cannot be planted to FAV's. The economic impact both short term, in lost payments and penalties, as well as long term in lost capitalization value of the Farm payments themselves. Simply assures that growers and landlords will not be able to afford to diversify into non-subsidized and otherwise economically competitive FAV's and will force them to continue to grow subsidized program crops.

The Canned, Frozen Food and Grower Coalition represents virtually all of the processed vegetables in the Midwest and has a sizeable contingent from outside of the Midwest with similar concerns as to the effects of the Farm Bill on FAV production for

processing. Seneca Foods as the largest vegetable canner in America, is joined by Del Monte Foods, Chiquita Processed Foods, Allen Canning, Lakeside Foods and many other companies and growers comprising the vast majority of the canned vegetables grown, processed and sold in this country being represented by this coalition. In addition virtually all of the Midwest tomato production is also represented. For a group with members ranging from multi plant processing companies to one plant family owned processors to family farmers, even achieving majority consensus on an issue confronting an industry would be difficult. The unanimous and genuine concern on this issue is truly unprecedented in our industry.

Processing fruits and vegetables are in large degree not suitable for fresh consumption. A processing tomato for example would not be considered desirable to consume as part of your dinner salad. The attributes of processing sweet corn varieties are significantly different than those sold on the fresh market stand. Even processing pumpkins are much different than those used to carve the Jack-o-Lantern a Halloween. Processing vegetables are grown under contract between a grower and a processor to be run in one of many of the plants located mostly in rural communities throughout the Midwest. The varieties are bred to maximize attributes that are desirable for processing and not fresh consumption (sieve size, field yield, plant recovery, color, disease and pest resistance, etc). The price is usually established months before planting and is generally based on competing commodity alternatives in the area. These processing crops are simply alternatives for growers of the more traditional corn and soybeans that dominate the Midwest. Most require little or no specialized equipment to be provided by the grower. Generally speaking the processor provides some of the inputs like seed as well as in many cases harvesting and hauling of the crop. This can be attractive for the young grower trying to get established with limited working capital as well as the established grower simply looking to diversify and defer a portion of the operations workload.

Having said all this, the growing of processing crops is not for everyone. It takes the willingness to include in many important decisions, the processor. The timing and method of many functions such as planting, pest control and harvest is controlled by the processor as opposed to the grower. With most FAV's there is an even greater need to have proper rotational and cultural practices in order to be successful. For these reasons the pool of potential growers to replace those who retire or decide not to continue to grow FAV's is already limited. Simple geographic proximity to the processing plant is an additional factor.

To make matters worse, we see no plausible way for a new grower to begin growing FAV's under the restrictions of the current bill. In addition, growers who have already made the decision to diversify into FAV's in 2002, who do not have previous farm or producer history, may not be able to continue growing in 2003 without prohibitive economic impact. At Seneca Foods, out of our 1964 Minnesota, Wisconsin and Illinois growers there are 92 such growers. This may not seem like a large number of affected individuals or acreage, but please consider that for them and for Seneca Foods, who must somehow replace the crops grown on those acres, it is a very significant issue. Other Midwest processors would have similar or worse impacts. The impact for processors that

have increased production at key locations as a result of consolidation find themselves in a situation where many growers have little or no vegetable history. Fluctuation in demand from year to year due to crop size the previous year sometimes requires extending the processing season in new areas. This possibility becomes all but impossible. In addition, for crops like sweet peas, green beans and pumpkin, requiring strict rotation to combat disease, the introduction of new ground is essential to maintaining yield and minimizing increased needs for chemical applications. There is no doubt. We have not even seen the beginning of a problem that will increase with each year under this bill.

In July of this year a group of approximately 40 growers in the small town of Scandia Kansas formed a cooperative and began operating a small sweet corn processing plant that was funded in part by a $500,000 grant from USDA. These growers took seriously agricultural experts advice to diversify in to value added crops and committed to building this plant. Even under the last Farm Bill several of the owners who would have otherwise purchased more acre rights in the co op did not do so due to limited non base acres and the restrictive economic impact of planting FAV's on program acres. Many of the growers / owners of this new venture, with the addition of soybeans as a program crop now have essentially 100% program crop bases. There is no farm or producer history for any of these growers. Each and every member has made significant investment and commitment to this new venture. Many now are faced with significant economic penalties to even continue growing the acreage of vegetables grown this year, let alone expanding per original intentions of this young venture. They cannot afford to stop growing subsidized program crops. Remember the economics of the crop itself are not the problem. It is the penalties and restrictions of the legislation itself that are prohibitive.

Farm policy has created negative implications to the growing of FAV's that have gradually increased over time and now have reached a critical state. The capitalized value of the government program has increased land cost for those who were fortunate enough to receive the benefit of having high base percentages when they were originally established. In many cases this was in part due to lack of other alternatives, like processing vegetables, in their area. For those loyal processing FAV growers who took advantage of the opportunity to diversify, reducing subsidized production, they now face reduced land value due to minimal bases and landlords who have realized the value of the farm program and are expressly prohibiting the growing of FAV's. Remember, these FAV growers received only competitive returns for growing FAV's, not the premium that some seem to think that they had received or the government subsidies associated with program crops. FAV's for processing do not have the revenue potential that can be seen with FAVs grown for the fresh market.

A family farmer in southern Minnesota told me that he lays awake nights over worry and distress due to his "poor management decision" to grow vegetables on his own, his father's and his sister's land and the resulting effect on the value of their land and thus his retirement and his families wealth. He now has some of the most fertile and productive soil in his county that is worth significantly less in both sale or rental value than comparable land simply because of his lack of base. The same grower also has two

landlords that have told him that they will not allow growing of vegetables on their farms any longer due to uncertainty of effect of future farm bills.

The reality of the 2002 Farm Bill is not only that processors are forced to compete with the Federal Government for acres. But that given the restrictions on planting FAV's they are at a distinct disadvantage. To the extent that the program does what we understand that it is intended to do, that is stabilize and improve commodity pricing and thus farm income we do not take issue. While some might argue the effectiveness of such policy, we will, as we have in the past, continue to compete with commodity values in developing contract pricing for our FAV's. Vegetable contracts for processing are based, in large part, on the competitive returns to growers for alternative crops (program and other) in the region. As government subsidies and or market pressures make commodities more attractive, processing FAV pricing must increase to attract suitable acreage. This is not the issue.

Areas in which processors simply cannot compete with the government due to restrictions and penalties associated with FAV production, are in replacing acreage that has been taken out of vegetable production either due to rotational issues or grower decisions and the capitalized value of the program itself. The ability to obtain new growers who are willing to diversify and forgo program payments as well as incur long-term reduction of land value is practically impossible.

The unintended consequence of the addition of soybeans combined with already in place restrictions on the growing of FAV's presents a serious issue for Midwest processors and growers. Important improvements to the original language of the Farm Bill are expected to be implemented by USDA as a result of our coalitions efforts to bring these issues to the department's attention. Although we would have liked to see further improvements within the discretion of USDA, we are grateful for the time that they took to meet with us and the steps that they had indicated would be taken. Our coalition believes that the fundamental issues that affect the growing of FAV's, which remain unresolved, must be addressed. Our industry provides both vitally important and safe food as well as significant economic stability in the rural areas that we operate. We ask for your help in resolving these issues and request your direction in moving the process for change continually forward.

Thank you again for your time and interest in this issue.

Testimony of J.B. Penn,

Undersecretary for Farm and Foreign Agriculture Services,

United States Department of Agriculture,

Before the House Small Business Committee, Subcommittee on

Regulatory Reform and Oversight

September 19, 2002

Thank you for giving me the opportunity to provide a written response to your hearing entitled "Federal Farm Programs: Unintended Consequences of Fruit and Vegetable Rules." You specifically ask about the impact the fruit and vegetable provisions of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) would have on growers and processors in the Midwest.

I will begin by providing a brief history of the fruit and vegetable provisions of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act). Then, I will note the statutory changes made by the 2002 Act, how the Department will implement these new provisions, and the expected impact on the fruit and vegetable industry.

Unlike previous farm legislation, the 1996 Act provided producers with almost complete planting flexibility. That provision received almost universal acclaim. Producers no longer were required to plant within restrictive and rigid government regulations. They no longer had to produce a specific crop to receive program benefits and were able to make planting decisions based on market signals and what was in their best economic interest.

The 1996 Act singled out fruits and vegetables as an exception to the planting flexibility rules. Planting of fruits and vegetables was restricted because of the concern that evensmall increases in fruit and vegetable acreage could be devastating to the traditional growers of these crops.

The 1996 Act imposed different rules for traditional and non-traditional producers of fruits and vegetables: the traditional fruit and vegetable producer could grow these crops on program crop acres; i.e. those acres used in determining a producer's payments under the 1996 Act, and the non-traditional fruit and vegetable grower (farms or producers without a prior history of growing these crops) could not grow these crops.

The 1996 Act also imposed payment reductions when fruits and vegetables were grown on program crop acres; again the rules were different for traditional and non-traditional producers of fruits and vegetables. When traditional growers planted fruits and vegetables on program crop acres, the producers had to forgo an acre of program payments for each acre of fruits and vegetables grown on program acres. Payments were taken away from these producers so they would not be "subsidized' for growing fruits and vegetables.

If a non-traditional grower of fruits and vegetables planted these crops on program crop acres, then the 1996 Act required that the contract between the producer and the government be terminated. This meant that the producer would not receive payments for the year of the violation of the planting restriction and any future years remaining in the 7-year contract. In lieu of termination, the producer could forgo payments on the program acres for the year of the violation of the planting restriction, and the Secretary also had the authority to assess an additional payment reduction. Since 1996, the additional payment reduction has been equal to the market value of the fruit and

vegetable. The additional payment reduction was applied to payments in the year of the violation and any subsequent years remaining in the seven-year contract.

The fruit and vegetable statutory provisions of the 2002 Act are essentially the same as the 1996 Act, with the following important exceptions:

1. Planting fruits and vegetables, except perennials, is no longer a violation; the violation occurs when the fruit and vegetable is harvested. In the past, many producers inadvertently planted fruits and vegetables on program crop acres, reported this to the Farm Service Agency, destroyed the crop, but were still in violation of the provision of the 1996 Act. The 2002 Act allows producers to destroy the fruits and vegetables and not be in violation of any fruit and vegetable provision.

2. The 1996 Act authorized a seven-year contract, so a payment reduction equal to value of fruits and vegetables was applied to subsequent years' payments. The 2002 Act authorizes a one-year contract, so a payment reduction cannot be applied to a subsequent year's payment.

3. The 2002 Act allows producers to opt out of the program for any year and they will: (a) not receive any direct and counter-cyclical payments; (b) be eligible for loans and loan deficiency payments; (c) be allowed to plant unlimited acres of fruits and vegetables; and (d) be permitted to enroll in succeeding years and receive full program benefits.

The 1996 Act established bases acres for wheat, feed grains, cotton, and rice. Nationally, base acres equal 212 million acres. Because producers of these crops can update their bases and oilseeds can establish bases for the first time, base acres could increase by 50 to 75 million acres. These additional base acres potentially reduce the "pool" of acres available for fruit and vegetable plantings.

Many producers who grow fruits and vegetables in the Midwest and many companies that contract with these producers have approached us with their concerns. They are concerned that the 2002 Act will increase the number of acres on which producers may not plant fruits and vegetables, due primarily to the addition of soybeans as a crop eligible for the establishment of base acres. This is a correct interpretation of the statutory provision. The Administration has no discretion in implementing this provision.

I heard many different viewpoints expressed by producers, businesses, and others concerned about this issue. We listened to all sides and tried to balance all concerns within the leeway we had in the statute. The Secretary has used discretionary tools available to her to strike a balance between opposing viewpoints. After many discussions, we understand Midwest farmers and companies are satisfied with the way the Department is administering the program. Traditional fruit and vegetable growers can plant these crops if they are willing to give up direct and counter-cyclical payments on those acres. The industry can attract non-traditional growers if the market returns from

growing fruits and vegetables outweigh the benefits of receiving direct and counter-cyclical payments on all covered commodities.

I understand that the fruit and vegetable planting flexibility provisions have been controversial, and we have heard compelling arguments from those who think the restrictions and penalties are too severe and from those who think the opposite. While I am a firm believer in the principle of planting flexibility, I am also concerned about how small increases in fruit and vegetable acreage can be very disruptive to the market. We do not want any market disruption to result from government programs.

For these very reasons, we have been careful to take a neutral approach to the fruit and vegetable rules that will be published shortly. We have listened carefully to the arguments and have developed the fruit and vegetable rule to minimize the government's role in influencing a producer's decision to plant fruits and vegetables. We have made no changes to the 1996 rules, except for those required by the 2002 Act as outlined above. Both the 1996 and 2002 Acts, and the way the Department has implemented these provisions, gives the industry the ability to attract new acres if market conditions warrant, without giving the program participant an unfair advantage in being able to receive both government payments and fruit and vegetable income on the same acres. Thank you for giving me the opportunity to address this situation.

Ball Corporation
10 Longs Peak Drive, Broomfield, CO 80021-2510 (303) 469-3131
Reply to: P.O. Box 5000, Broomfield, CO 80038-5000

September 24, 2002

Statement Before The Subcommittee on Regulatory Reform and Oversight House Small Business Committee U.S. House of Representatives Hearing on Federal Farm Programs

Ball Corporation's Food Can Operation appreciates the opportunity to comment on implementation of the planting flexibility provisions of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171), commonly referred to as the 2002 Farm Bill. Ball Corporation is a leading provider of metal and plastic packaging, primarily for beverages and foods, and of aerospace and other technologies and services to commercial and government consumers. Founded in 1880, the company employs nearly 10,000 people in approximately 60 locations worldwide. In our food can operation, Ball Corporation and its joint venture company employ nearly 1,300 people. Last year the Operation sold over 6.5 billion steel cans, 3.3 billion of which were used by vegetable packers. We are therefore very interested in the issue that is currently before the Subcommittee.

The North American processed food industry is a diverse segment of the economy. A significant part of the industry is located in the Midwest, and it is a highly competitive business where quality and low-cost efficiency are the keys to success. If not implemented properly, the planting flexibility provisions of the 2002 Farm Bill could severely undermine the economic viability of Midwest food processing operations. In response to concerns raised by the growers and the processing industry, the U.S. Department of Agriculture (USDA) has taken a number of administrative steps in an attempt to ensure that the Farm Bill does not unnecessarily interfere with the market dynamics that affect this industry. The USDA has provided clear guidance for producers that want to grow fruits and vegetables for processing. Further, and perhaps most importantly, the Department has stated that in most cases it will not impose massive financial penalties on growers, as it has done in the past, and will simply reduce federal subsidies on an acre-for-acre basis.

Regrettably, there is only so much USDA can do administratively, and it is likely that Congressional action will be required to fully rectify this issue. In particular, it appears that USDA's actions provide limited, some would say non-existent, opportunities to replace fruit and vegetable production from retiring growers. Over time, this will reduce the amount of product available to Midwest food processors. If their processing operations are forced to operate below capacity, it will only be a matter of time before some of these operations are forced to close or scale back production.

There are a number of downstream impacts that we urge Congress to keep in mind as it considers how to address this issue. Of particular importance to Ball Corporation are the potential loss of valued customers and a reduction in demand for cans. Any reduction in can demand, of course, impacts our bottom line and compromises the efficiency of our food container manufacturing facilities.

Again, thank you for the opportunity to provide these comments. Your leadership on this issue is greatly appreciated.

900 N. Cedar Ave., Owatonna, MN. 55060
507 – 446 – 7700

September 17, 2002

U.S. House of Representatives
Subcommittee of the Committee on Small Business
on Regulatory Reform and Oversight
Congressman Mike Pence – IN, Chairman

Dear Subcommittee Members

I would like to applaud the work and effort that our Representatives and Senators put into researching, drafting,and passing into law our current Agriculture Farm Bill.
As a agricultural manager for Chiquita Processed Foods, L.L.C., a vegetable processor, I attended an informational meeting put on by on our local Congressman Gil Gutknecth. At that meeting I expressed concern that as a vegetable processor we depend on local farmers to raise vegetable crops for us, and that current language in the Farm Bill was including soybeans as a program crop. In the past we could contract growers to raise vegetables on soybean acres because they were not a program crop.
As vegetable processors we depend on farmers to produce approximately 500,000 acres of vegetables for us in the three state region of Minnesota, Wisconsin, and Illinois. Our livelyhood depends on farmers growing high quality vegetable crops for us. To maiximize yields and minimize the use of crop protectants we require a crop rotation. What this means is growing other crops on the same land for a number of years to eliminate harmfull insects, bacterium or fungi that can damage crops. In the instance of peas a minimum of a four year cropping rotation is a best management practice. Even under this management practice a crop threating root rot can develop in the soil that can devestate the crop for at least up to 20 years later. So a wide variety of land options is a major requirement for us.The current Farm Bill is restricting any new growers to replace growers that may have a crop threating issue in their soil, or for future expansion of vegetables.
While the current farm bill tries to be more friendly to farmers raising vegetable crops our past farm bill and practices are the opposite and is coming back to haunt us. Under the 1996 Farm Bill to maintain a good cropping rotation many growers would commingle many farms into one operating unit so they could easlily move vegetable acres to other farms. Under the current Farm Bill if a grower does not have a history of fruits and vegetables he can raise them but would have to drop out of the program for that year. That may mean that to raise 40 acres of vegetable a farmer may lose 2,000 acres of program support prices. As vegetable processors we must compete against corn and soybean prices to contract farmers to raise vegetables for us. That will not change even

though soybeans has been added as a contract crop. However we can not compete against 2,000 acres of crop supports, or how many acres that grower may have commingled together, for the farmer to raise 40 acres of peas for us.
What we really need is a non restricting farm bill that would allow our local farmers the option to raise processing vegetables on their farms with an acre for acre reduction in program support losses for the cropping year, or better yet be allowed to grow vegetables on program acres without any loss of program payments. After all processors that use field corn to make cereal, chips, flour, and etc. do not compete against program payments. Their growers receive program supports.

Thank You for spending time listening to our concerns about the current language of the 2002 Farm Bill.

Sincerely,

Mr. Curtis Linge
Raw Products Manager
Chiquita Processed Foods, L.L.C.
900 N. Cedar Ave.
Owatonna, MN 55060

Congressional Hearing, September 19, 2002, Rayburn House Office Building, Room 2360

The Honorable Mike Pence,

We believe that in the process of writing the 2002 Farm Bill that there has been an oversight that has severely affected those of us who raise fruits and vegetables here in the Midwest and elsewhere. What we are facing is the loss of crop history and potentially base acres since we have been growing FAV on acres that will now be ineligible for program payments or history based on the current rules of the 2002 Farm Bill. The net effect of this would be to adversely affect retiring growers who have been raising FAV's because of the reduced program bases that they now have; to hurt new aspiring young farmers who would wish to raise FAV's on acres that have never been in FAV's; and would eliminate processing plants from introducing FAV's to new areas.

We would respectfully request that farm history will be recognized as any FAV planted between 1991 and 2001, and that the farm be eligible for unlimited FAV acreage with an acre-for-acre reduction. We believe this to be a fair way of treating the history of FAV's with regard to other program crop histories.

We would ask that the history of planted FAV's between 1991 and 2001 not be crop specific. We should be able to grow these crops on any base acre if there is a previous history.

We would ask that we be allowed an annual signup for any particular farm each year. If producers would decide to keep a farm out, they could.

The penalties for planting FAV's on program acreage should be limited to the value of the crop and to the value of the farm payment for that year only. The penalty should occur at harvest and not at planning as in the previous farm bill.

We would ask that you give serious considerations to the above suggestions as you debate this issue.

Respectfully submitted,

Randy Mott, Farm Manager, Tip Top Canning Company, Tipp City, Ohio.

From: William Gast
The Beckman and Gast Co.
P.O. Box 307
St. Henry, Ohio 45883

To: Subcommittee Staff Director Rosario Palmieri

TOPIC: 2002 Farm Bill Commidity Section Growing Fruits & Vegetables on Program Base Acres

We are a small processing company, but also raise about 900 acres of fruits and vegetables. We have several growers with whom we contract raw products from. I can honestly tell you that I don't know much about any of the farm bills. I go to the FSA office every fall, sign a few papers and I receive a small check.

The problem I had with the new farm bill was how it would affect my tenant. I rent 600-700 acres out to a local farmer to raise field corn. For him to lose his payment, because I planted some vegetables on certified ground, would cause me to lose a renter, or to have to drastically reduce my rent. This same scenario would apply when I try to rent some ground from someone else to plant tomatoes on. They would never rent to me if it would cause them to lose their payment.

In summation, this bill needs to be written, not to get me any more money, but so the people I rent to or rent from won't lose their payments.

Sincerely,

Bill Gast, Farm Manager
The Beckman and Gast Co.