

## **FBI executes search warrants on California spinach companies**

By Ken McLaughlin and Brandon Bailey  
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SAN JOSE, Calif. - In a startling twist to the E. coli outbreak that has flummoxed federal and state investigators, agents for the FBI and FDA on Wednesday executed two search warrants on two Salinas area companies, saying they were looking for evidence of a crime.

The two companies were Growers Express of Salinas, Calif., and Natural Selection Foods of San Juan Bautista, Calif. - the company whose bagged spinach is at the center of the outbreak. It was unclear how Growers Express - which grows and packs produce in the western United States and Latin America - fits into the probe.

An FBI spokesman said agents from the bureau had been involved in the case "for quite some time."

"There's no indication this was tampering. There's no indication this was terrorism or anything like that," said Special Agent Joseph Schadler. But in a clue as to why the two businesses were raided, Schadler said there could be criminal violations if growers or distributors did not take steps required to ensure the spinach was safe.

Schadler said investigators may look into possible violations of environmental laws as well as parts of the federal Food, Drug and Cosmetic Act.

News of the FBI's involvement raised echoes of the 1996 E. coli outbreak linked to juice produced by Odwalla Inc., a Northern California company that was convicted on criminal charges for not preventing contamination of its products. The company paid \$1.5 million after pleading guilty to 16 misdemeanors stemming from an outbreak that killed a toddler and caused dozens of others to become sick in several Western states and Canada.

Joseph John, the federal prosecutor in that case, said courts have ruled that food suppliers have "strict liability" in contamination cases, meaning they can be found guilty of a misdemeanor simply for distributing contaminated food across state lines, knowingly or not. The intent of the law is to make suppliers take responsibility for ensuring the safety of their food.

Depending on the statutes involved, Schadler said, authorities may not have to show intentional violation of the law to prove a crime. Still, he emphasized that the U.S. attorney's office could end up filing no charges in the case.

The latest E. coli outbreak has so far killed one person and sickened at least 192 others in 26 states and Canada.

FBI and Food and Drug Administration officials were mum on what they might have found on Wednesday. But Charles Sweat, Natural Selection's chief operating officer, said agents had requested

paperwork, including documents already provided to the FDA and the California Department of Health Services.

Bill Marler, a Seattle attorney whose firm is representing 93 victims in the E. coli outbreak, said the federal agents could have been looking for "missing quality assurance documents."

"It would be a problem for the company if they are lost or, worse, destroyed," he said.

In the statement, however, Sweat vigorously defended the plant's integrity and food-safety practices.

"All tests performed on our processing facilities, both those done by independent scientists and government investigators, have been . . . clean," he said. "We continue to believe that the source of the contamination was in the fields from which we buy our spinach."

Sweat made a similar statement at a news conference last week at which he announced that all spinach, lettuce and other leafy greens entering the company's processing plant are now undergoing random sampling for E. coli, salmonella and other pathogens.

Several farmers said they were shocked to hear of the FBI's involvement.

"This is just very disturbing. Just the indication that they've taken this step is bad," said Andrew Cumming, president of MetzFresh, a spinach grower in King City and Salinas.

Many spinach growers have suffered severe financial losses since the contamination outbreak surfaced last month. "We've had a really bad two or three weeks now, and this just piles on."

Cumming said "If something was done illegally, that's not the standard of our industry."

Officials at Growers Express did not issue any comment on the raids. The company grows and packs iceberg lettuce sold under the Green Giant Fresh label and Farm Day packaged spinach. It has 40,000 acres of fields in California, Arizona, Mexico and Peru.

While many food-safety cases are handled administratively, criminal prosecutions have increased since the Odwalla case. The exact cause of the spinach outbreak has yet to be found, but in the Odwalla case, authorities never determined the source of the contamination either. They suspected it originated in the feces of workers or cattle that had migrated into the orchards. While the government did not contend that Odwalla acted maliciously, it said the company failed to take adequate precautions. Odwalla has since started a flash-pasteurization process.

The same strain of E. coli was also implicated in a food contamination case involving hamburgers sold by Jack In the Box restaurants in 1993. No one was prosecuted in that case, linked to the death of four children in the Pacific Northwest.

Under the federal Food, Drug and Cosmetic Act, it can be a misdemeanor to distribute any contaminated food through interstate commerce. It can be a felony if authorities can show evidence of

intent or a previous violation of the act. Penalties for a felony can include a \$10,000 fine, three years in prison or both.

Authorities also have prosecuted farmers under federal clean-water laws and other environmental statutes.

In the same year as the Odwalla convictions, a California dairyman was convicted on misdemeanor charges after authorities accused him of dumping thousands of gallons of wastewater contaminated with animal feces and urine into nearby creeks.

Christine Bruhn, a food scientist and director of the Center for Consumer Research at the University of California-Davis, said that kind of prosecution is "a really good deterrent" for other food producers who might be tempted to cut corners.