TESTIMONY OF
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Before the U.S. International Trade Commission

Sunset Review of Suspension Agreements on
Lemon Juice from Argentina and Mexico

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Good morning, Mr. Chairman and members of the Commission. My name is Bill Borgers. I'm the president of Ventura Coastal, LLC a citrus processing company headquartered in Ventura, California. I've been with Ventura for 31 years, an owner of the company for 26 years and the company's president for almost 8 years now. I am the CEO of ~~Ventura Coastal LLC~~, the joint venture between Sunkist and Ventura Coastal, which became effective February 1, 2012. The joint venture processes lemons, which it purchases from Sunkist and other independent growers and buys on the cash market and converts into lemon juice, lemon oil and various lemon byproducts.

The joint venture operates two processing plants in Visalia, California, and in Tipton, California and a storage and distribution center in Ventura, California. Ventura Coastal used to operate in Indio, California, but we were forced to close that plant in 2003 at least partially due to low lemon juice prices caused by unfairly priced imports.

Ventura Coastal produces two main products from lemons, juice and oil. Historically about half the revenue came from the juice side and half the revenue came from oil. Lemon juice is used primarily in the beverage industry where it's sold in the form of lemonade or bottled lemon juice. Lemon oil, on the other hand, is primarily used as a flavoring ingredient in carbonated beverages and some nonfood consumer products. Lemon oil is a very potent flavor ingredient, unlike lemon juice. Therefore, their applications are totally separate, and they are not readily interchangeable.

Lemon juice is made in both concentrated and not-from-concentrate forms. The extraction and manufacturing processes are identical until the point where the juice is diverted either to an evaporator for concentrate or pasteurization/oil reduction for NFC. Concentrated lemon juice may be used in lemonade or reconstituted form as lemon juice sold to the consumer. NFC is generally used in premium lemon beverages/lemonades which advertise a more fresh natural taste and have a higher percentage of lemon juice. Since there's no minimum required juice level in lemon beverages, a beverage producer can control cost by either switching to cheaper bulk concentrate or by decreasing the overall percentage of the juice in its product.

Ventura produces lemon concentrate in both cloudy and clear forms, depending on the demands of the customer. The difference between cloudy and clear is the amount of natural suspended pulp and cloud content which can be filtered out to achieve a more transparent appearance. Both products are used primarily in the beverage industry. Clarified juice goes into a shelf stable product typically packaged in clear bottles and cloudy juice will go into a refrigerated product packed in opaque packages.

I note that while lemon oil is not part of this investigation, in order for a lemon processing operation to be profitable, the operation must be profitable with respect to its combined lemon oil and juice sales. In some cases, the low price of one co-product may need to be offset by a higher price for the other co-product in order for the operation to be profitable.

As I testified five years ago, Ventura experienced ever worsening lemon juice profit margins through 2005 when it decided that it had to change its business strategy. In the face of unfair competition from subject imports, Ventura decided that it simply could not compete with imports from Argentina and Mexico based on price. Instead of lowering our prices to a level where we couldn't recover our cost, we abandoned most of the market. Mainly we put our emphasis on the sale of value-added lemon juice products such as ultra low pulp and clarified lemon juice where the margins are higher, but the customers are fewer and there's less volume available. While we were able to retain some customers using this strategy, we lost many others. Furthermore, while we were able to make a profit on our sales of value-added product, our overall shipment of lemon juice declined by approximately two-thirds and our inventories more than doubled.

After the imposition of the suspension agreements in 2007, prices increased significantly, sales volume increased, its profitability increased and our pay prices to our growers increased. Sunkist's prices also increased, although Sunkist still had certain long-term contracts to major customers at the beginning of the period that were entered into prior to the suspension agreements and reflected pre-suspension agreement price levels. It was only after those significant contracts expired that Sunkist was able to gain the full benefits of the suspension agreements.

I would note one thing regarding the calculation of profitability for Sunkist and the combined industry. As Mr. Wootton stated, Sunkist is a cooperative. I note that as a result of this structure, the questionnaire required that Sunkist not report any costs for lemons in their COGs. This, of course, results in significantly overstated profitability for Sunkist during the period 2007 through February 2012. These figures should not be taken at face value. A cooperative like Sunkist must evaluate its profitability based on whether its return to growers cover at least a portion of their costs. During the period 2007-2011, the average Sunkist return to growers from the sale of lemon processed products averaged less than half of the cost of picking the fruit from the tree. This does not represent a high profit, it represents a loss on sales. The closest the record comes to presenting a true profitability figure for the U.S. industry is 2012, which includes only one month prior to the formation of the joint venture.

However the Commission calculates the current profitability of the U.S. industry and however high that number appears to be, the Commission should not take this to mean that the industry is immune from injury. Today, sales in this industry are made mainly on the basis of short term contracts with the remainder of sales made on a spot basis. The joint venture does not currently have any long term contracts for the sale of lemon juice and I do not believe that respondents have any either. In addition, the peak sales period for lemon juice in the United States is the same as the Argentine processing season. As a result, price levels in this industry can change quickly and dramatically and last years's profits can turn into this year's losses.

As Mike testified, today we are extremely concerned by the size of the industry in Argentina and the size of their current inventories. Argentine exports to Europe have declined as demand in Europe has declined. Projections indicate that the recession in Europe will persist into the foreseeable future and that demand for lemon juice in that market will remain low. As a result, Argentine exports have already shifted some of this volume to the United States at lower prices and the price of Mexican lemon juice has followed Argentina ever lower. The only thing preventing Argentine exporters from increasing their exports to the United States even more and at even lower prices is the suspension agreement, which requires them to sell lemon juice at fair value and above their cost of production.

Ventura and Sunkist compete with imports from Argentina and Mexico for the same customers and that competition is based on price. There is no significant difference in the quality of lemon juice from Argentina or Mexico and U.S. lemon juice. We have always competed with Argentina and Mexico for our highest volume cloudy lemon juice concentrate sales. We have also experienced competition from Argentina for clear lemon juice and from Mexico for NFC. We now understand that one Argentine producer has received a normal value from Commerce for the sale of NFC in the United States and we expect greater competition in that market very soon.

The impact of Argentine overproduction is already being felt in the United States. We lost significant volumes at major customers in 2012 to lower priced imports from Argentina and Ventura has had to offer lower prices to other customers in order to keep their business. As a result, my inventories have increased dramatically and have continued to increase since December 31, 2012. Neither Ventura nor Argentine producers can keep lemon juice in inventory indefinitely. Concentrate can generally be kept in inventory from 1-2 years and we can only keep bulk NFC in inventory for a week. Furthermore, inventories sell at a significant discount as they approach their expiration date after a year in storage.

Absent the suspension agreements, the volume of imports from Argentina will increase dramatically at the expense of our market share and the price-based competition we are currently facing will only intensify. The improvements in the condition of the U.S. industry experienced since the imposition of the suspension agreement will disappear in a matter of months.

We respectfully urge the Commission to keep the order in place. I will be pleased to answer any questions that you might have.