October 5, 2007

Acting Secretary Chuck Connor
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Connor:

We are deeply concerned about the handling of the Topps beef recall. Over the last week, we have seen this situation grow rapidly in scale to become the second-largest recall of ground beef in U.S. history, with over 21 million pounds of product affected. Twenty-nine people in eight states are already ill, with scores more at risk from frozen patties that may lie forgotten in freezers. And this ground beef recall is the sixth since April, which is a huge increase over recent years. Unfortunately, FSIS stands at the center of the maelstrom.

The Chicago Tribune recently reported that FSIS may have known of the presence of \textit{E. coli} O157:H7 in Topps’ product as early as September 7—18 days before a recall announcement was issued, which FSIS has confirmed. Obviously that information is deeply disturbing and must be investigated thoroughly and immediately. While FSIS has openly admitted that it will do better, an investigation into this recall is needed, particularly in light of the recently-passed PDUFA legislation that demonstrates Congress’s intention to strengthen reporting and notification procedures. That legislation delineates a strict 48-hour timetable for companies to report contaminated product and requires prompt review by FDA thereafter. Although USDA is not legally impacted by this legislation, surely FSIS recognizes its purpose and the irony of FSIS’s failure to ensure that consumers were promptly notified.

Five years ago, in response to the massive ConAgra beef recall, FSIS published guidance requiring beef manufacturers reassess their HACCP plans to determine if \textit{E. coli} O157:H7 was a likely food-safety hazard and to address any such hazard in their HACCP plans. In a tele-news conference on October 4, Dr. Dan Englejohn confirmed that the agency has already begun to uncover some problems with the application of that policy. It remains unclear whether that guidance has been followed in any meaningful way, and the result could be deadly for consumers. FSIS must promptly and completely investigate whether in fact this important guidance was followed, and if not, how the lack of compliance went undetected for so long.

The Center for Science in the Public Interest, on behalf of our 800,000 American members, urges USDA to promptly hold a public meeting to discuss the agency’s handling of the Topps recall and how to make improvements in the future. In particular, FSIS should request comments on the following critical issues:

- **Rework**: Rework is frequently involved in recalls of this magnitude. Failures within the system and practices within plants cannot always ensure that
contaminated and uncontaminated lots are separated effectively. The constant mix of old and new production continues the chain of contamination.

- Testing of Trim and Final Product: A 2003 National Academy of Science study recommended testing trim as part of an effective HACCP system. While FSIS has recently begun trim testing, the process should be discussed and evaluated, including whether trim testing should be required of meat grinders. Further, final product testing can serve as an additional safeguard of a robust HACCP system. FSIS should revisit the issue of requiring final product testing of ground beef products before distribution.

- Traceback and Recall: In an outbreak of this magnitude, where contaminated product sold at various outlets under numerous brand names now sits frozen in consumers’ homes, the ability to trace product is essential. FSIS should address the status of animal identification and other traceability protocols. FSIS should also review its policies on product tracing and whether the information on packages is clear enough to allow consumers to readily identify product during a recall.

This latest recall is yet another sobering example of how our food safety system is failing consumers. We hope that FSIS will move quickly to identify and rectify the weakest points of its own process, and we look forward to a full and open discussion of this issue.

Sincerely,

Michael F. Jacobson, Ph.D.  
Executive Director  
Center for Science in the Public Interest

Caroline Smith DeWaal  
Director, Food Safety  
Center for Science in the Public Interest

cc: Dr. Richard Raymond, Under Secretary for Food Safety