UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	**Investigation Nos.:**
BIODIESEL FROM ARGENTINA	)	**701-TA-571-572 AND 731-TA-1347-1348**
AND INDONESIA	)	**(PRELIMINARY)**

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UNITED STATES OF AMERICA

BEFORE THE

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:	) Investigation Nos.:
BIODIESEL FROM ARGENTINA	) 701-TA-571-572 AND
AND INDONESIA	) 731-TA-1347-1348
	) (PRELIMINARY)

Main Hearing Room (Room 101)
U.S. International Trade Commission
500 E Street, SW
Washington, DC
Thursday, April 13, 2017

The meeting commenced pursuant to notice at 9:30 a.m., before the Investigative Staff of the United States International Trade Commission, Elizabeth Haines, Supervisory Investigator, presiding.

APPEARANCES:

Staff:

William Bishop, Supervisory Hearings and Information Officer

Sharon Bellamy, Records Management Specialist

Elizabeth Haines, Supervisory Investigator

Calvin Chang, Investigator

Nathanael Comly, Investigator

Brian Allen, International Trade Analyst

Michele Breaux, International Economist

Charles Yost, Accountant/Auditor

Michael Haldenstein, Attorney/Advisor

Russell Duncan, Statistician

Embassy Appearance:
The Embassy of Argentina
Washington, DC
Minister Pablo Rodriguez Brizuela, Economic and Commercial Section

Opening Remarks:
Respondents (Matthew P. McCullough, Curtis, Mallet-Prevost, Colt & Mosle LLP)
Petitioner (Myles S. Getlan, Cassidy Levy Kent (USA) LLP)

In Opposition to the Imposition of Antidumping and Countervailing Duty Orders:
Curtis, Mallet-Prevost, Colt & Mosle LLP
Washington, DC
on behalf of
Camara Argentina de Biocombustibles (CARBIO)
Aceitera General Deheza S.A.; Bunge Argentina S.A.; Cargill S.A.C.I.; COFCO Argentina S.A.; LDC Argentina S.A.; Molinos Agro S.A.; Oleaginosa Moreno Hermanos S.A.; Vicentin S.A.I.C.
Daniel L. Porter, James P. Durling and Matthew P. McCullough - Of Counsel

White & Case
Washington, DC
on behalf of
Louis Drefus Company Claypool Holdings ("LDC Claypool")
Louis Dreyfus Company Agricultural Industries LLC ("LDCAI")
    Sean Doyle, President, LDC Claypool and LDCAI
    Gregory Spak and Kristina Zissis - Of Counsel

Greenberg Traurig LLP
Washington, DC
on behalf of
BioSphere Fuels, LLC ("BioSphere")
    Michael Whitney, Director of Renewable Fuels, BioSphere
    Rosa S. Jeong - Of Counsel

Akin Gump Strauss Hauer & Feld LLP
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on behalf of
Wilmar Oleo North America LLC ("Wilmar")
    John Cummings, Director of Biodiesel, Wilmar
    Thomas Rogers, Principal, Capital Trade
    Andrew Szamosszegi, Principal, Capital Trade
    Bernd G. Janzen - Of Counsel

Appleton Luff
Washington, DC
On behalf of
PT Musim Mas
Edmund Sim - Of Counsel

Cassidy Levy Kent (USA) LLP
Washington, DC
on behalf of
The National Biodiesel Board Fair Trade Coalition
Anne Steckel, Vice President of Federal Affairs, National Biodiesel Board
Sandra Franco, Director of Regulatory Affairs and General Counsel, National Biodiesel Board
Dr. Robert Morton, Chairman, Newport Biodiesel, Inc.
Paul Soanes, President and Chief Executive Officer, RBF Port Neches LLC
Chad Stone, Chief Financial Officer, Renewable Energy Group, Inc.
Myles S. Getlan and Jack Levy - Of Counsel

Rebuttal/Closing Remarks:
Respondents (Edmund Sim, Appleton Luff)
Petitioner (Myles S. Getlan, Cassidy Levy Kent (USA) LLP)

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P R O C E E D I N G S

(9:30 a.m.)

MR. BISHOP: Will the room please come to order?

MS. HAINES: Good morning and welcome to the U.S. International Trade Commission's conference in connection with the preliminary phase of anti-dumping and countervailing duty investigation number 701-TA-571 and 572 and 731-TA-1347, 1348 concerning Biodiesel from Argentina and Indonesia.

My name's Elizabeth Haines. I'm the supervisory investigator for these investigations and I will preside at this conference. Among those present from the Commission staff are Russell Duncan, the statistician; Nate Comly, the Investigator; Michael Haldenstein, the Attorney Adviser; Michelle Breaux, the Economist; Chip Yost, the Accountant; and Brian Allen, the Industry Analyst.

I understand the parties are aware of the time allocations. Any questions regarding the time allocation should be addressed with the Secretary. And I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphones.

We also ask that you state your name and affiliation for the record before beginning your presentation or answering questions for the benefit of the

court reporter. All witnesses must be sworn in before presenting testimony. Are there any questions?

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Madam Chairman, I would note that all witnesses for today's conference have been sworn in. There are no other preliminary matters.

MS. HAINES: Very well. Will you please announce our embassy witness?

MR. BISHOP: From the Embassy of Argentina, Minister Pablo Rodriguez Brizuela from the Economic and Commercial Section of the Embassy of Argentina.

STATEMENT OF MINISTER PABLO RODRIGUEZ BRIZUELA

MR. BRIZUELA: Thank you very much. The Argentine Republic appreciates the opportunity to express its view regarding the anti-dumping and countervailing duty investigations and imports of biodiesel from Argentina and Indonesia.

This is a matter of very serious concern for our countries in these investigations. It's -- if it's initiated will affect 25 percent of the total value or Argentine exports to the United States. The Argentine Republic strongly believe that any affirmative preliminary determination of material injury or threat of material injury to the United States biodiesel industry could be

unwarranted.

For the reasons stated below, as far as the Commission is concerned, the imposition of countervailing or anti-dumping duties in this investigation will not be consistent with either United States law or multilateral obligations. The Argentine Republic considers that the petitioner's allegation of injury are groundless and should be deeply scrutinized by the Commission before reaching its preliminary determination.

Pursuant to Section 701 and 732 of the 1930 Tariff Act titled 19 of the Code of Federal Regulations, Article 11 of the WTO agreement on subsidized and countervailing duties, and Article 5 of the WTO agreement on implementation of that Article 4, a petition must include sufficient evidence of the existence of injury and a causal link between the allegedly subsidized or dumped imports and the allegedly injury. In this regard, the petition completely lacks evidence of injury.

On the basis of the extremely limited amount of information that the petitioners have included in the public version of the petition, it is hard to conceive how the U.S. biodiesel industry is injured at all. Rather than declining, the figures submitted by the petitioners themselves show a healthy industry with extremely good indicators. Indeed, the fuels provided in the application

show that the U.S. biodiesel industry indicator for production exports and shipments actually increased during the period 2014, 2016.

Furthermore, the petitioners themselves recognize that there has been an increase of 20 percent in production related workers employed by coalition member companies and were able to utilize more capacity in the context when capacity itself grew almost 9 percent during the relevant period.

Concerning the profitability of the industry, petitioners never argue that the industry had negative profits. They just affirm that operating profits declined only as a percentage of sales, which could probably mean that profit was positive rather than negative, during that period.

These rather excellent performance indicators were arrived at in an environment where total apparent domestic consumption was vigorously expanding in the U.S. and the domestic industry holds almost 70 percent share of the market.

In addition, during the 2014, 2016 period, U.S. producers were not able to fulfill the RFS biodiesel mandate by themselves alone. U.S. official figures even indicate that during 2014 and 2015, U.S. production plus total imports of biodiesel amounted to 1.4 and 1.6 billion gallons

respectively, while the RFS mandate was set at 1.63 and 1.73 billion respectively.

Hence, the U.S. industry had a clear opportunity to increase even more its production and market share during that period, but failed to do so. Therefore, imports were clearly not impediment for the U.S. industry to continue expanding its market share and did not hurt the U.S. industry in any way.

Again, as to the threat of material injury allegation, the evidence presented by the petitioners is absolutely unconvincing. An allegation of a likely important increase of imports when the market is expanding and the industry is doing well cannot lead to a determination of threat of material injury.

Threat of material injury cannot be argued when imports are increasing in a market that is expanding. This is especially true in this case where during the period 2014, 2016, total apparent consumption via the U.S. market increased by almost 60 percent.

Petitioners also argue that export to the U.S. market will be further strengthened by limitations on another export markets like Peru and the European Union. This is unfounded. Export to Peru only represented a small share of Argentine's export to the U.S. and the European Union. And concerning the anti-dumping measure in the EU,

both the WTO and the European Union general court have declared its illegality. And there is a real chance that export will resume in a few months' time.

Furthermore, petitioner's claims about growth in production capacity in Argentina And the pricing of Argentine imports are simply inaccurate. Argentina's production capacity will remain in 2017 at the same level that in 2016. In addition to this, USDA estimates shows that biodiesel production of -- for Argentina's domestic market is expected to continue its ascending trend.

As for the pricing of Argentine imports, according to Exhibit GEN-28 submitted by the petitioners, it is completely unclear that imports have resulted in underselling or price operation. And in any event, that such effect have been significant.

Finally, according to U.S. law, Article 11.24 of the SCM agreement and Article 5 of the anti-dumping agreement, the petition should have included evidence that the alleged industry injury or threat of injury to the domestic industry is caused by dumped or subsidized imports.

Even if the Commission were to wrongly consider that material injury of or -- of threat that have exist, there is no evidence that the alleged injury to the U.S. domestic industry is caused by allegedly subsidized or dumped imports.

In concluding, due to above referenced reasons, the government of Argentina considers the U.S. biodiesel industry did not show any injury in terms of either U.S. law or the WTO agreements caused by imports of Argentina, and hence there is no basis for the Commission to reach an affirmative preliminary determination of material injury or threat thereof to the United States biodiesel industry. Thank you.

MS. HAINES: Thank you very much. Thank you. So respondents opening remarks? Thank you.

MR. BISHOP: Opening remarks on behalf of respondents will be given by Matthew P. McCullough, Curtis Mallet-Prevost, Colt & Mosle.

OPENING REMARKS OF MATTHEW P. McCULLOUGH

MR. MCCULLOUGH: Members of the Commission staff, good morning. For the record, my name is Matthew McCullough, partner with the law firm of Curtis Mallet-Prevost. On behalf of respondent interests in this proceeding, let me offer you the following opening statement.

This is a case about the devil in the details. And I will get to that, but let's start with a few fundamental and unassailable facts. The domestic entry data collected by the Commission in this preliminary proceeding shows a number of important positive trends over the

investigation period. Capacity, production, shipments, utilization rates, productivity, and employment all increased. And when I say increased, I'm not splitting hairs. We are talking about very high double digit growth rates.

Against this growth, you also have some of the most positive industry commentary ever seen in an investigation period, including in 2016 and into the first quarter of 2017. And that commentary is buttressed by firm action within the market.

According to market observers, more biodiesel plant expansions, upgrades, and mergers and acquisitions were announced in 2016 than in any time in recent memory, pointing to an extremely positive outlook from the perspective of the industry and strategic investors.

But let's move to some of the more subtle but even more important details of this case, where the petition either ignores how the biodiesel market actually operates, or it simply attempts to exploit the complexities in order to suggest injury by reason of subject imports. These details revolve around a handful of important conditions of competition, that we will address at some length in our affirmative presentation. But for now, I will cover four important factors.

First, make no mistake, this is a policy-driven

market that is heavily influenced by U.S. government subsidies and government mandates on the use of biodiesel. This is not a widget case, far from it. Market behavior is driven not only by the presence of such market interventions, but also by uncertainty about their future.

Suffice it to say that the presence and fate of both a federal blending tax credit and the RFS explain a tremendous amount of how -- about how the domestic industry performed over the period of investigation in terms of pricing, production, and profitability.

For now, I will emphasize two key points, starting with the fact that if the Commission really wants to understand the industry profitability, it must take into account all revenue streams created by the federal framework, as well as state and local policies. If properly considered, the reality is that the domestic entry was profitable, and profitability increased over the period. Petitioners suggestion to the contrary is pure accounting slight of hand.

The other point to be made is that the Commission is -- must understand how these different revenue streams tie into product pricing. To that end, we have serious doubts about whether the pricing data collected by the Commission actually provide fair apples to apples comparisons. There is no material underselling on this

market and a fair amount of overselling by subject imports.

Second, the U.S. domestic entry has real supply constraints in terms of physical capacity, as well as in terms of structural and geographic shortcomings. At the outset, the domestic entry simply does not have the physical capacity to meet the RFS mandate and the shortfall is substantial. This is why when the EPA establishes the RFS, it does so with import growth fully anticipated.

There is also misalignment of U.S. capacity in terms of geographic location with production concentrated in the Midwest and demand concentrated in the coastal areas where the infrastructure exists to efficiently handle storage, blending operations, and transportation to end markets.

Finally, the Commission will need to distinguish between efficient vertically integrated operations and those facilities either completely disconnected from their feed stock source or challenged by significant geographic dispersion.

Third, renewable diesel, as distinguished from biodiesel, is an expanding and important part of this market. Petitioners ignore its role, but it is an important factor to consider. One of its more immediate impacts is to soak up nonsoy based feed stocks used to make biodiesel, placing facilities requiring such feed stocks at a

disadvantage.

Finally, the Commission needs to understand the role of seasonality in this market, including the impact cold weather has on biodiesel demand and the practical reality of polar opposite growing seasons for soybean feed stock in Argentina and the United States.

These factors create specific and compelling nonprice advantages for Argentina Imports of biodiesel that cannot be ignored. Not surprisingly, none of these issues are covered in the petition, but we will cover them today with expert testimony from one of the largest buyers of biodiesel in this market, as well as by domestic and foreign industry witnesses.

What all this testimony will show is that the record before the Commission even at this preliminary stage does not support a finding of reasonable indication of material injury or threat thereof from subject imports. Thank you for your time and we look forward to your questions today.

MR. BISHOP: Opening remarks on behalf of petitioner will be given by Myles S. Getlan of Cassidy Levy Kent.

OPENING REMARKS OF MYLES GETLAN

MR. GETLAN: Good morning, my name is Myles Getlan with the law firm Cassidy Levy Kent, representing the

National Biodiesel Board Fair Trade Coalition, the petitioner in this case.

We are here today because of the serious damage to the U.S. biodiesel industry caused by the huge surge of subsidized and dumped biodiesel imports from Argentina and Indonesia. As we will discuss, this surge of low priced imports have suffocated the domestic biodiesel industry in terms of lost market share, weak financial results, and an inability to invest in its future.

The petition alleges extensive subsidies in both Argentina and Indonesia. Biodiesel producers in both countries leverage their subsidy rich environments to build out highly export dependent operations. Clearly, many of these producers exist only to export.

As the staff is aware, biodiesel exported from Argentina and Indonesia has previously been found to be unfairly traded and injurious. In 2013, the EU imposed anti-dumping duties on biodiesel imports from both Argentina and Indonesia. More recently, Peru imposed trade remedies on imported biodiesel from Argentina. With the EU no longer available market, Argentine and Indonesian producers focused on the next largest and most attractive market in the world, the United States and focus they did.

With subject imports growing from less than 100 million gallons of biodiesel in 2014 to 553 million gallons

in 2016, a staggering 464 percent increase during the period of investigation.

These increased volumes came directly at the expense of U.S. producers. Argentine and Indonesian biodiesel increased market share from about 7 percent in 2014 to more than 25 percent in 2016. This 18 percentage point increase in market share was taken from U.S. producers.

How did subject imports capture such a large portion of the market so quickly? Quite clearly, on the basis of price. Biodiesel is a commodity product. Let us be clear, all biodiesel sold for transportation fuel and heating oil in the United States meets the same ASTM specification. Every gallon of Argentine and Indonesian biodiesel sold in the United States could have been supplied by a U.S. producer, if not for subsidized and dumped prices.

The preliminary pricing record also bears this out. In a commodity market, where underselling would be expected to be mixed, the pricing data provides strong evidence of underselling from all subject imports. And yes, Indonesia and U.S. biodiesel prices can be compared on an apples to apples basis on this record, which shows that Indonesia captured marketshare by under cutting U.S. producer prices.

Beyond the pricing data, our industry witnesses will discuss their experience in the market and how they must contend nearly every day with the prospect of selling at lower and lower prices, based on import competition. These low priced imports have injured U.S. producers and threatened their continued viability.

That we are discussing injury at the end of 2016 is tragic. 2016 should have been a great year for the domestic industry. Demand was strong. The domestic industry had built sufficient production capacity and developed extensive logistical capabilities to satisfy this demand. Feed stock costs declined during the period. And there was greater certainty in the overall regulatory environment than there had been earlier in the period.

The domestic industry and industries still maturing should have realized significant returns on their existing investments and reinvested those profits to further expand their capacity in order to supply the future energy needs of this country. Instead, the domestic industry had negative gross margin and incurred staggering operating losses. And even accounting for the value of government tax credits, the domestic industry's net income declined to levels that simply do not support reinvestment.

These declining margins resulted in declining and paltry capital expenditures during the POI, with U.S.

producers reporting that this low price environment caused them to cancel and downsize investments. We all should take great pride in the U.S. biodiesel industry. They produce a green alternative to petroleum diesel that is significant environmental benefits, but this industry is being stifled by subsidized and dumped imports from Argentina and Indonesia. Without a remedy, our country's leadership in green energy will take a major hit. And with it, so will the thousands of employees working in this industry. We look forward to further discussing these issues with you today. Thank you.

MR. BISHOP: Would the panel in opposition to the imposition of anti-dumping countervailing duty orders please come forward and be seated?

(Pause.)

MS. HAINES: Welcome. You may proceed.

MR. BISHOP: Before you begin your direct testimony, please remember to state your name every time you speak, so that the court reporter who knows who to attribute that to. Thank you.

STATEMENT OF MICHAEL WHITNEY

MR. WHITNEY: Thank you. Good morning, and thank you for having me here. My name is Michael Whitney. I'm the Director of Renewable Fuels at Musket Corporation. It's important for you to understand the various entities

that we operate in the biodiesel space and as Musket.

The importer and the person who buys our non-road grade fuel is an entity called Biosphere Fuels LLC, and is a related entity with common ownership with Musket Corporation as well as the Loves Travel Stops and Country Stores. The Loves Travel Stops is the second largest truck stop chain in the U.S. We're a 60 year-old family owned privately held business.

We operate a nationwide network of 450 truck stops in 40 U.S. states, and we sell approximately five billion gallons of diesel fuel to our nation's truckers and trucking fleets. As part and parcel to our commitment to our customers, to provide them the most competitive, high quality low cost fuel, we are engaged in the biodiesel business. In fact, we've worked collaboratively over the last seven years with the Petitioners to grow demand, to grow customer acceptance, to encourage the market to take a product that frankly truckers didn't want.

We've made a rather significant investment in the market to bring this product to the market. Investments to date have totaled over one-quarter billion dollars in infrastructure to put this product in the market, so we're very invested in the outcome of this hearing. We account for about 20 to 25 percent of all the demand for the product in the U.S. through our retail chain.

What I want you to understand here that this is not a regular commodity, and in fact in a lot of ways it's not a commodity at all. Previous witnesses have mentioned the role of the U.S. government and the mandate that the EPA is the one who sets the mandate, therefore setting the demand for the product, and that is set on an annual basis with different RIC categories and vintages, which I can discuss in greater detail later.

Between 2014 and 2016, there was a massive increase in demand for the product because of higher mandates set by the EPA, as well as the reimposition of a blender's tax credit in a prospective fashion, and this accounts for a lot of that increase. Over the time period in question between 2014 and 2016, our demand for biodiesel doubled. Interestingly in the same time frame, our demand for domestic biodiesel increased by nearly twofold as well.

There's also the blender's tax credit, but more important there are RIN values associated with this. So the product itself comes attached with what's called a RIN credit. You're going to hear this word a lot of times, and it's a rather challenging thing to understand. Each molecule of this fuel comes attached with it 1.5 RINs. This would be a biomass-based diesel RIN attached to the product.

This RIN has value that we need to use and attach and sell to refiners who are obligated under the

program. The names and the IDs backing these RINs matter, and I'll go over this a little bit later, and it's very interesting to understand that this qualitative factor of this RIN credit dictates cost and value in the market.

As the blender who is also the consumer of this fuel and who is also the consumer of diesel fuel, I have to stand in between the producers of this product with this RIN credit and sell it to these refiners for cash. Why do I have to do that? Because the feedstocks for biodiesel cost more than diesel fuel.

Now what happens if this RIN credit is not valid? I can't go back to my customers. I can't go back to Exxon Mobil or Chevron and say sorry, this RIN is invalid. They're going to come to me to my balance, to my ownership and say please replace these RINs. So I'll talk a little bit more about why these RINs are very qualitative, and they get lost in this price data, and the producers of this product and the RINs that they generate on it are not all created equal.

There's also different categories for different fuels. They get different RIN categories. The Indonesian biodiesel, for example, achieves only a D6 or a conventional RIN. It is entirely a different product, a different market entirely, because the demand for this product is not set for customer demand. The customers don't

want this fuel, I'll be frank with you.

But refiners who are obligated in the RFS need RINs for compliance, full stop. For Indonesian product, they need a different type of RIN. For biodiesel and the D4 category, they need a different type of RIN. These are two separate products almost entirely from a regulatory standpoint. Also consider the fact that there needs to be EPA certification on feedstock, regardless of where the fuel is made.

This is a very complicated process, but this is not steel. It's not a widget, as one of the witnesses mentioned earlier. It's a very complicated, qualitatively driven product. There are also various state subsidies and mandates in the various U.S. states, and I can elaborate a little bit further on the impacts in Q and A if you want to know about the various state subsidies.

I want to press this point about qualitative factors. To us as a major seller of fuel, a family-owned business, our reputation matters, and counterparties matter to us. We don't just do business with anybody because we're going to be left holding the bag with our customers in the case of defaults.

One of the Petitioners gave us off spec fuel that caused the largest quality incident in the history of our biodiesel program, and we don't buy from them and go

figure. Another one of the Petitioners was involved in a RIN fraud action in front of the Department of Justice and the EPA Criminal Enforcement Division.

Maybe I don't want to go buy biodiesel with their RINs because they're hard to move because they were involved in a RIN fraud action. Another one of the Petitioners owed us over $8 million on a retroactive tax credit on a contract, and refused to pay us. We had to institute legal proceedings to collect that money from them.

So when counterparties matter, there are certain people in the domestic space that we do not want to do business with from counterparty risk, and from protecting ourselves and our shareholders. Very important to understand that, that not all gallons are created equal because of the RINs and the counterparties.

So the elephant in the room is why do we buy imports? It's really simple. Domestic producers could not give me what I needed, where I needed it and when I needed it. Think about that for a second. One of the previous witnesses mentioned where the domestic production was.

It's in the Midwest, nowhere near Houston, Texas. A boat conveniently comes up and lands into a big tank and a nine million gallon parcel that allows me to optimize my supply chain. Very simply, it is the most efficient way for me to put fuel into my supply chain.

Remember this is very important. We run a 24-7 business to service our nation's truckers. We always have to have fuel. We always have to have coffee and beef jerky as well, but we always have to have fuel. So utilization on waterborne vessels is 20 percent more efficient than rail-borne movements. So what I would have to do otherwise is supply Houston or Brownsville or Mobile, Alabama, as I would have to bring in rail cars 25,000 gallons at a time.

I'd have to put them through a proprietary system called a transloader, load it onto a truck and take it to the store. Well that's really inefficient and costly. Imported product lands in these big fuel-style terminals with 24-7 card access. The drivers pull up, they punch in a code, they load, they get in, they get out. They get out in 18 minutes. In some of these domestic plants, 24 to 30 minutes on loadout. So efficiency to optimize our 1,500 truck movements per days is the lifeblood of our business of supplying and keeping our nation's truckers full with their saddle tanks of fuel.

A lot of these plants as well have created other quality issues, as we've seen in the past. Smaller plants in the U.S. don't tend to have the same commitment to quality and the value around working capital and other things to provide us an efficient amount of high quality

fuel. Our system goes through about one million gallons of biodiesel a day.

I can't functionally come in and buy it 7,000 gallons at a time. I need big buckets of fuel into efficient demand centers, which typically are located on the coast. One of the previous witnesses mentioned seasonality. This is very important to understand in our business. Winter is very challenging for biodiesel. Cold weather makes biodiesel gel up in a trucker's tank, really simply.

We don't want our customers stranded on the side of the road in a cold Iowa winter because of the cold flow properties of biodiesel. Now interestingly, the Argentine biodiesel comes into the U.S. at the end of their crop. Go figure. They're long a lot of beef, long a lot of oil. They want to move that product into the market.

Well conveniently it lands into our market in the spring time when weather is warming and demand starts to grow, whereas the reverse is true of the domestic producers. Their crop ends in the winter when our demand is lowest. So there's a lot of seasonal factors to take into account when you take a look at the data here. We've looked at this data internally and sometimes Argentine product costs more, and sometimes it costs less.

But the important thing for you all to take away is that there are qualitative factors that dictate our

buying behavior. It is not always about price. Now I'm not going to lie to you and tell you that price isn't a concern. Obviously it is, but it's much more important for us to have full, 100 percent flowing product to our customers.

It's important to understand why we want that. Biodiesel, with the subsidies and with the ring credits, is cheaper than diesel fuel, full stop. Customers don't want the product, but what do we do as a retailer? We discount it to get them to take it, so it has to be cheaper. What happens when we don't have full utilization? Well, we miss that margin opportunity and that value to our customer forever.

So we want to run the utilization rates as high as possible, and the infrastructure and the movement and the loadout of the domestic capacity cannot meet higher efficiency targets for us, which are the lifeblood of our commitment to our customers to give them the most competitively priced fuel.

So a couple of things I want to look at as state subsidies, and I mentioned that a little bit earlier. If we look at some of the Petitioner's data, you can see that they've cherry picked some of the most expensive states for biodiesel, and I welcome your questions in the Q and A on this. They picked Illinois. Illinois has the most lavish subsidy for biodiesel in the U.S.

They have a six and a quarter percent sales and use tax exemption, if you have at least ten percent biodiesel in the fuel. So what do we do? We try to get that fuel in there at all costs. It's worth about a $1.50 to $1.70 a gallon, or we will truck it from hither and yonder to blow it into that market to capture that $1.50, because $1.50 is a ton of value in fuel to our customers.

Indiana they also cite. Well guess what? Indiana's right next door to Illinois. It also pulls in Illinois to attract that big incentive. They also chose Ohio. Ohio has exactly one biodiesel plant, which isn't actually a biodiesel plant. It's owned by Marathon Petroleum and it was repurposed from a food plant, if you remember that old food plant Olestra. They converted that plant to make biodiesel.

It pipes over its glycerin to a Proctor and Gamble plant that has to be both halal certified and kosher certified for the glycerin. What does that mean? Really, really high operating costs. So I'll show and I can go through this, that they picked very, very high-priced markets to try to make their case, when the reality is biodiesel is available at better prices, with more efficient supply chains throughout the rest of the country.

Finishing up here, I want to talk a little bit about our Argentine import program. We negotiate contracts

two to three quarters in advance. Prior to this petition, we had contracted for deliveries of Argentine biodiesel, not knowing that this petition was going to be filed, assuming the current duty structure for quantities of biodiesel arriving in the second quarter of the U.S.

So since the petition, we have not added any additional values, and we're very concerned that the biodiesel that will come in that was contracted before the petition would be unnaturally harmed and will hurt the value that we give to our customers who are our nation's truckers. I'd like to thank you for your time, and I welcome your questions and comments. Thank you.

STATEMENT OF SEAN DOYLE

MR. DOYLE: All right, good morning. My name is Sean Doyle, and I am the North American platform head for oils at Louis Dreyfus Company. In that role, I'm the president ^^^^ among other things, I'm the president of two U.S. companies that are involved in the biodiesel industry, LDCAI, which is a U.S. producer, and its merchandiser, which is the acronym LDCCH. Also LDCCH is an importer.

LDCAI built and operates an integrated soybean crush, biodiesel and glycerin refinery in Claypool, Indiana, that can produce in excess of 99 million gallons annually. LDCAI has invested over 70 million U.S. dollars in the facility since we began operation in 2007. I've been in my

current position since 2008, and in the biodiesel and related business sectors for over ten years.

So as a U.S. producer, why am I here? Well, I have one message for you today. Biodiesel imports increased in 2016 because biodiesel imports were needed in 2016. Why? Well, really you immediately need to start to talk about the increasing mandate levels and about RINs, the renewable identification numbers that obligated parties are required to retire to show fulfillment of the renewable fuel standard mandates.

Now I don't want to get like too wonky on you, but I kind of have to. So this increased demand for RINs and the related increase in price bid for RINs, brought the increased Argentine biodiesel to the United States. In this mandated world that we're living in now, biodiesel should really be thought of as a RIN creation vehicle. Biodiesel, when compared to alternative sources of RINs such as cellulosic ethanol or algae oil or sugar cane ethanol is really merely a cost efficient way to create advance biofuel RINs.

As this growing market for RINs became clear, kind of in that 2014 time frame, individual Argentine companies, at great expense, worked to create compliance programs were identity-preserved soybeans could be processed into oil and refined into biodiesel to generate RINs, which

then -- yeah. So even as these -- so once these compliance programs turned actual soybean purchases into RINs via Argentine biodiesel, the U.S. biodiesel industry ran quite hard to generate even more RINs.

So the next question is well why couldn't the U.S. biodiesel industry alone meet the additional demand for RINs? Well the U.S. industry faces limitations on efficient, cost efficient feedstock and efficient capacity to generate RINs. Let's start with the feedstock. Soybean oil made up 46 percent of the oils used for biodiesel production in the United States in 2016.

Soybean processing facilities produced soybean oil and soybean meal like we do in Claypool, Indiana, and both products may be consumed domestically or exported. Thus, the U.S. prices for soybean oil and soybean meal, because we are a big player in the export for both meal and oil, are really governed by a global network of prices, if you will.

Soybean processing responds to soybean processing margins, and soybean processing margins respond to, you know, Ec 101, the supply of soybeans and the demand for soybean products, soybean meal and oil. So let's just back up and see what's happened in the last couple of years here.

Since 2010, soybean production has grown by

about four percent per year. Soybean meal demand has grown by about 2.5 percent per year. While soybean oil demand for food use is unchanged, we are processing 18 percent more soybeans than in 2010, but we aren't eating 18 percent more potato chips or 18 percent more French fries.

Soybean oil needs biodiesel because America's French fry eating demand is pretty inelastic to the price of soybean oil. Without biodiesel, we'd either need to slow down soybean processing or export more oil, or be swimming in the stuff.

The claim of import injury needs to be evaluated in this context. If Argentina biodiesel were being dumped into the United States, we should see -- let's just focus on 2016 now -- we should see a combination of significantly rising soybean oil exports and inventories, and/or inventories, with declining soybean processing, and of course declining demand for U.S. biodiesel and soy.

None of this occurred. Looking at 2016 relative to 2015, U.S. soybean oil inventories, exports and soybean processing were little changed, almost unchanged, while U.S. soybean oil use in biodiesel was up a whopping 19.5 percent, to 1.2 billion pounds or also known as a record 6.095 billion pounds. So the facts just don't add up to the claim. Historically, non-collocated or -- so let me get into another level of detail here.

So historically, non-collocated, so that would be a biodiesel plant not attached to a soybean crush plant, I'll refer to it as collocated. A non-collocated plant or a non-soy plant was essentially able to enjoy two margins. These plants historically had a margin from converting say a cheaper oil like tallow or used cooking oil or the corn oil you'll get from the DDGS ethanol plant, to a soy equivalent oil and then converting that soy equivalent oil into biodiesel.

Well, this cheap oil margin has decreased over time, thanks to two factors, just like any margin, right. It's decreased thanks to the soybean oil price pressure that is described, because we're pumping out more soybean oil and the food demand's not growing at the same rate as they were pumping out more soybean oil, but also from the other angle, by increased competition for the cheap oil.

Specifically, you know, you look at specific events that happened from 2014 to '16. Very important in that time period was Diamond Green Diesel. They had commissioned in kind of the middle of 2013, June 2013, an 150 million gallon per year renewable diesel plant in Norco, Louisiana, and as you would expect when you look at articles, you see that as you went from 2014 through into 2016, it was running at higher rates of capacity.

So what does that mean? It means that

non-collocated plants were increasingly forced to compete with plants like this monstrous Diamond Green plant, for what used to be cheap feedstock or with collocated plants like mine in Claypool, Indiana for soybean oil. And then, you know, what's another important question? Well, with all this talk of injury, did Diamond Green make money in 2016?

And then, you know, another important question. With all this talk of injury, did Diamond Green make money in 2016? Well, I don't work for Diamond Green, but I can read the news. First I can -- first, let me get to the credits. First, you need to know that they produce renewable diesel, which receives 1.7 RINs per wet gallon versus 1.5 RINs per wet gallon for regular biodiesel.

That sounds like not a big distinction. But that's a 20 cent a gallon benefit at current RIN prices. So quite material versus cost of production or cost of feedstock. Not to mention, they were producing our drop in fuel with complete customer acceptance on the consumer side, versus you know, biodiesel, which as you heard from Michael, it can be difficult to get customer acceptance.

Finally, to me the icing on the cake is just again, anyone can read the newspaper. They announced less than a month ago that they are expanding capacity by 83 percent to 275 million gallons per year. So I can only assume that they did very well in 2016. Now let's get back

to something, you know, let's talk about efficient capacity. Louis Dreyfus Company chose to build an integrated soybean crush and biodiesel plant in the United States in 2007. Why?

Well, it's a long story, but let me try and summarize it. Biodiesel as that time was a bit of a niche business. You had wide variations in prices that left large regional margins that allowed any combination of small, less efficient stand-alone or remote from feedstock plants to make money at times.

However, our view was that because soybean meal demand grows so much faster than soybean oil demand for food use, soybean oil supply would eventually have to drive biodiesel demand and price. So within this evolution of the industry, biodiesel margins have proven more volatile than regular commodity margins.

What has led to this volatility? Well, a big factor, as other people have mentioned, has been the uncertainty surrounding the U.S. federal biodiesel tax credit, the renewable fuel standard, the RFS, and how the industry has transacted through this uncertainty. One critical point to always remember when looking at this information you may receive is that the revenue from sales of B-99 biodiesel is not just the sales price of the B-99 biodiesel. You also need to include the tax credit revenue.

When the tax credit exists, producers have generally sold biodiesel as B-99. I mean the cost to convert to B-100 and beyond is like inconsequential in terms of capital, so it's just the way the market has moved in terms of the way it transacts. So anyways, you're implicitly including the revenue from the credit in their sale decision.

Now it gets a little more even complicated. So what happens when the tax credit has lapsed? Well, like in 2015, producers generally still sold biodiesel as B-99, but with a 50-50 split of any eventual credit with the consumers, anticipating that the credit could come back retroactively because it has. It always has, and ironically so.

Then if one just goes back to look at the tape, you would see revenue derived from sales of B-99. If one were only to look at the revenue derived from sales of B-99, you would see less revenue in a year like 2016, when there was a tax credit, then in a year like 2015, when there was not. Well, this is the opposite of what actually occurred.

Within this volatility, there have been periods of commodity tight margins, and there's no doubt that during these periods, less efficient, stand-alone or remote from feedstock plants can suffer variable run rates

and some even go bankrupt. In certain cases, larger players have bought these plants at cents on the dollar of construction costs. However, while the name on the top of the plant has changed, the poor fundamental economics of these plants has not changed.

In 2016, we ran our Claypool plant as hard as the plant would allow, and we enjoyed quite strong margins. We have a similar outlook for 2017. We see a bright enough outlook for the business that we invested in a distillation process to help improve our biodiesel quality so we can sell into the winter months more easily, that began operating in 2014, and a glycerin refinery to improve the quality of our byproduct that began operating in 2015.

So what makes some U.S. biodiesel producers' stories so different from other U.S. biodiesel producers? It comes down to location, quality and size. Let's start with the location. Domestic transportation, whether in truck or rail cars, is expensive relative to biodiesel margins and variable costs of production.

Whether in the U.S., the EU, Brazil or Argentina, the long-term success rate of a stand-alone biodiesel facility is very low, because that extra cost of domestic transportation is material versus variable costs, and therefore against industry margins.

Further, transportation costs and modes are

also a problem to reach demand points. The majority of U.S. biodiesel capacity is in the Midwest, but the majority of diesel and heating oil demand is on the coast. We are one of the eastern-most large biodiesel plants, and so we know firsthand how difficult it can be to sell rail cars into a very large market, which is the Northeast heating oil market, the hub of which is located in New York harbor.

Not only are rail freight costs high, I mean everyone complains about the railroad, but average transit time is extremely unpredictable, and congestion problems getting in and around the New York harbor area as you can imagine are extreme. And so you just never know when the stuff's going to arrive, and so how do I make good on a contract when I don't know how long it's going to take to get from Indiana to New York harbor.

So let's switch to the consumption side. Domestic consumers want ratable and reliable quantity and quality, both of the biodiesel and the RINs. The cost to a refiner or a distributor of poor quality biodiesel or RINs from just one transaction can quickly run into millions of dollars of both outright and reputational cost.

Further, going back to the beginning of the speech, a domestic consumer seeks to lock -- and this gets a little more technical, so bear with me here. A domestic consumer, what they're really trying to do is lock in a RIN

production margin in volume, whenever and however it arrives.

So let's walk through an example to make this RIN production margin more clear. So let's say we're sitting around a January crop report and we find record soybean production like we did this year. Soybean oil drops in price relative to heating oil while RINs are unchanged. Musket's RIN production margin therefore opens by ten cents a gallon, and they bid for 15 million gallons because they want to capture, you know, this extra $1.5 million that didn't exist yesterday.

So they put out a bid for 15 million gallons March through August. Firstly, that's a huge amount of volume, not aligning people that can even offer against it. But that's regularly what happens. So we sell, Dreyfus sells Musket at a premium to heating oil. Musket buys the cash biodiesel at that premium to heating oil and then sells RINs to lock in his RIN production margin.

I go out and buy soybean oil, sell heating oil to lock in my biodiesel margin and the world goes on. Now it's critical to note in this real life example that the biodiesel flat price did not create the transaction. The RIN production margin at that moment in time created the transaction. So biodiesel prices, you know, a month later may even go lower, as the U.S. soybean crop proves to be

even bigger, as is what is happening right now.

Does that make biodiesel cheaper? In reality, no. The biodiesel is only cheaper if it creates a better RIN production margin on that day. If biodiesel price goes down but heating oil or RINs have gone down by more, the RIN production margin has declined, and the biodiesel is actually more expensive to Musket, the consumer.

So history has taught both producers and consumers that these RIN production margins are extremely volatile. You need to be able to transact on large volumes the day they open up. If Musket wants to buy six months of biodiesel on the January crop report day because a RIN production margin has opened, I need to be able to sell six months of biodiesel on that day.

Finally, our size allows economies of scale that are frankly normal in the commodity business. We built a biodiesel plant sized to process all the soybean oil produced by the collocated soybean processing plant. This is the same model one sees at successful biodiesel and food oil plants globally. Collocating saves domestic transportation costs, and also saves significantly on fixed costs.

One plant manager oversees both facilities, material handlers, unload beans and load on meal and biodiesel. Maintenance, of course, will service both

facilities and the list will go on. In summary, efficient, well located biodiesel plants did well in 2016 and we expect them to do well in the future, as evidenced by an over $25 million investment in our biodiesel facility in the last three years.

With all this investment, the obvious question is why are we also importing? Why am I here talking to you today? Because we are running at full capacity at high margins, and we saw that our customers wanted more product, they wanted more RINs. Thank you. That concludes my direct testimony and I look forward to your questions during the Q and A session.

STATEMENT OF JOHN CUMMINGS

MR. CUMMINGS: Good morning. My name is John Cummings and I'm the Director of Biodiesel for Wilmar Oleo North America, LLC, or WONA. WONA is a U.S. importer of Palm based methyl ester, in short, PME, from our related Indonesian producer.

I appreciate the chance to appear here today and hope my comments will help the Commission staff develop a complete understanding of the distinct way that Indonesia PME participates in the U.S. market.

My responsibilities at WONA cover a wide range of issues, including ensuring that our product meets our customer's specifications, and dealing with the many aspects

of U.S. environmental and tax law for biodiesel to determine what kind of PME, and how much of it we may sell into the U.S. market.

I have been at WONA since the beginning of its U.S. office in 2008, and have spent most of the past decade dealing day in and day out with the constraints on Indonesian PME in the U.S. market. And let me tell you, there are many.

I would like to start with an overview of the Indonesian industry because the picture presented by the MBB Coalition leaves a distorted impression. While the MBB Coalition describes a large and growing Indonesian industry that supposedly harms their profitability in the U.S. market, in fact there are only two producers in Indonesia, Wilmar and Musim Mas with the legal and physical ability to supply PME to the U.S. market.

Not a single other Indonesian producer is qualified to sell PME into the U.S. market. These basic facts have not changed in many years, and based on my extensive experience working with EPA's treatment of Indonesian PME I'm confident that they will not change for the foreseeable future.

What the Commission needs to understand is the participation of Wilmar and Musim Mas in the U.S. market is effectively capped at a level that has remained constant

since 2011. To fully explain the operation of the legal cap, it's necessary to go back to 2011 when the EPA issued a finding that PME does not meet the federal 20 percent life cycle greenhouse gas emission reduction target as compared to the life cycle emissions of petrol diesel.

Specifically, based on a complicated analysis that took into account land use change for palm fruit and many other factors, the EPA found that PME represented only a 17 percent greenhouse gas emission saving from petro-diesel.

Accordingly, under the terms of federal renewable standard program, or RFS, Indonesian PME could not qualify as a renewable fuel. With this decision, which the EPA has not changed since 2011, the U.S. Government effectively declared PME to be a disfavored fuel for the purposes of RFS. And in fact for the purposes of EPA's definition under the RFS, it would be wrong to even call PME biodiesel.

But the EPA left open a very narrow channel for a limited volume of Indonesian PME to enter the U.S. market. Based on the legal framework for the RFS-2 final rule, the EPA allowed two, and only two, Indonesian biodiesel facilities that it operated since 2007 to have a specified volume grandfathered into the new rules. This volume was limited to PME production facilities that could trace the palm fruit used in their production back to certain RFS

qualifying plantation, and where the traceability would stand up to a rigorous audit requirement for every single truckload of palm fruit delivered to that production facility.

Using these parameters, the EPA set a grandfathered volume cap for Wilmar at 149 million gallons annually. Musim Mas likewise has a grandfathered volume subject to the same stringent traceability and audit requirements. But that is it for Indonesia. No other Indonesian PME is legally permitted under the RFS rules to supply the U.S. market.

It is important to understand that it is highly unlikely that Wilmar and Musim Mas would ever ship to the U.S. market the full grandfathered volume. This is because the same palm fruit plantation certified for use in PME in the U.S. market are also certified for the production of other end products for other export markets. It is often more economic for the Indonesian producers to use the certified plantation for other end products.

There is another important legal constraint operating here. Also due to the RFS-2 rules, the volume from the two grandfathered Indonesian plants does not qualify for the D4 RIN that U.S. obligated parties must buy to satisfy their biomass based diesel volume requirement under the RFS.

This is one of the main reasons why Indonesian PME is not really biodiesel for the purposes of RFS rules. The Indonesian grandfathered volume only qualifies for a D6 RIN that is commonly referred to as the core ethanol RIN or also renewable RIN.

This legal difference between the D4 and the D6 RIN, as I'll come to in a minute, has enormous commercial implications for our participation into the U.S. market because the D6 RIN is consistently sold at considerable discount to the D4 RIN It is simply not worth as much.

On top of all the constraints imposed by the federal RFS, several U.S. states through their state-level renewable fuel mandates and programs also disfavor, effectively prohibiting, Indonesian PME from participation.

For example, California through its low-carbon fuel standard, gives Indonesian PME a greenhouse gas emissions saving score that ranks it worse than petro diesel. Similarly, Oregon expressly prohibits the use of PME in its diesel blending requirements.

Also, New York City, which requires blending in its substantial heating oil market permits use of only biomass-based diesel fuels that qualify for the D4 RIN, which Indonesian PME does not. In this way, New York City has effectively excluded Indonesian PME.

But these are not the only factors that limit

participation of PME in the U.S. market. There are also physical differences in the product as compared to SME that limit where in the U.S. market and when we are able to sell PME.

Most importantly, PME has some significantly different cull properties from SME. In technical terms, the cloud point of PME--that is, the temperature at which it starts to congeal--is in the range of 55 to 60 degrees Fahrenheit. SME, by contrast, has a cloud point of 35 degrees Fahrenheit, meaning it is expected to hold up better in colder conditions.

Because of the much higher cloud point, PME has limited application in colder climates and during winter months. Because of this physical difference between PME and SME, the geographic zone into which we are able to sell our product is limited to the southern tier of the country and along the coast to a point. We have in the past sold some PME into the Northeast U.S. heating oil market, but these sales have diminished substantially in part due to the technical limitations of PME.

Also, because of the much higher cloud point of PME, many U.S. buyers are not willing to entertain purchasing of PME and many tank farm operators, including the largest one in the country, Kinder Morgan, don't allow our product in their terminals due to cloud point

restrictions.

All of these policy based and physical factors that distinguish PME from SME have important implications on pricing. In a word, PME is worth less than SME. The difference in the value of the D4 and the D6 RIN alone is the major driver of this difference.

The physical limitations of PME also factor into pricing as PME and SME are not directly interchangeable in all U.S. markets at all times of the year. In fact, its customers often seek discounts reflecting these factors that suppress the value of PME relative to SME. There is also the issue of hedging.

Some suppliers of the purchasers of biodiesel rely extensively on hedging, while others do not, relying purely on spot market prices. Thus, price differentials observed by the Commission could easily be a result of operation of hedging, or the absence of hedging.

For these reasons, I want to make sure the Commission staff understands that the direct comparison of PME prices with any other biodiesel prices does not reveal anything meaningful. Even if the comparisons are done on a RINless basis. At any rate, right now, absent the blender tax credit and little expectation that it will be reinstated soon, the value of all biodiesel in the United States has effectively dropped by one dollar per gallon.

Because of the distinct and additional disadvantages faced by the Indonesian PME, our product is currently uneconomic to transport and resell in the U.S. market, and we have not imported a single gallon since last year, nor do we have any forward sales on our books at this time, which is unusual for this time of year.

I understand the same is true for Musim Mas, again the only other Indonesian producer of PME legally qualified to supply the U.S. market.

Finally, to wrap up, I want to briefly comment on the bigger picture I see as Wilmar evaluates how to cope with this case. During my entire career with Wilmar, I have seen how the NBB, which by the way started its life as the National Soy Biodiesel Association, has effectively used its lobbying clout to disadvantage and limit the role of PME in the U.S. market. The NBB claims to have a feedstock neutral policy, but in fact they work very hard to limit PME's role in this U.S. market. And now the NBB is working to convert the blender tax credit to a producer tax credit, which would prohibit imports from receiving the IRS credit.

If they succeed, the playing field for biodiesel in the U.S. market will be even more tilted against PMEs than it already is. Already now the NBB is succeeding in creating a U.S. policy framework that excludes PME from the D-4 volume mandate. To now seek imposition of duties when

they have already so successfully constrained PME's share of the U.S. market, really looks like over-reaching.

Thank you for your attention.

STATEMENT OF ANDREW SZAMOSSZEGI

MR. SZAMOSSZEGI: Hello. My name is Andrew Szamosszegi. I am a principal at Capital Trade.

The U.S. biodiesel market is a complicated one that involves the interaction of feedstock, agricultural feedstock, petroleum, tax credits, government mandates, greenhouse gas-based rankings, and something called a BOHO margin. But Petitioner tells a very simple story: Subject imports increased. U.S. prices declined. And profits shrank.

It is not that simple. The biodiesel market is strongly influenced by the government volume mandates, the blender's tax credit, and the trends in the petro diesel and feedstock prices, as you've heard.

Government policy anticipates imports, and imports are needed to meet the mandated consumption of biodiesel. Why? Because the domestic biodiesel industry does not have enough capacity.

Slide two illustrates how the blender's tax credit both incentivizes production and imports in order to comply with the RFS. Without the credit, both price and supply would be lower, and biodiesel would be priced at

approximately the same level as petro diesel. With the credit, as you see from the graph, producers and importers obtain higher prices and production and imports increase, helping to fulfill the RFS.

The credit can have an outside effect on the market because it intermittently expires. Demand for biodiesel tends to rise sharply in the months before the credit expires, leading to spikes in production and imports as shown in slide three.

Petitioner presented capacity utilization numbers that made it seem like it could easily meet the RFS target for biodiesel on its own. The questionnaire responses make it clear that effective capacity is much lower than claimed in the Petition. As slide four indicates, the EPA recognizes that imported biodiesel is necessary to meet the RFS targets.

Insufficient capacity is not the only reason imports are required. According to EPA, the domestic industry faces many constraints that prevent it from meeting the mandate in a cost-effective way. This mostly relate to inadequate distribution and transportation infrastructure discussed by the EPA. And as explained clearly by Michael Whitney today.

Moreover, when petro diesel prices are low, feedstock is diverted to more profitable uses, further

limiting the ability of the domestic industry to contribute to meeting the RFS targets.

As shown in slide six, the NBB has recognized the importance of imported biodiesel and the need to improve distribution infrastructure. While the Petition is limited to nonrenewable diesel, biodiesel, the Commission should not ignore renewable diesel, which is produced from vegetable oil and animal fats using a different production technology. The renewable product also dominates the West Coast market.

Slides 8 through 13 identify other supply and demand considerations. As shown in slide 8, prices for biodiesel and petro diesel track each other closely at the retail level, which is not surprising given that the wholesale contracts for biodiesel are pegged to the price of petro diesel.

Biodiesel prices at the producer level are sensitive to the expiration of the tax credit. Slide 10 demonstrates that the spread between producer prices for biodiesel and retail prices for petro diesel, wide in 2011, 2013, and 2016, years preceding the expiration of the blender's tax credit.

This close link between the prices of biodiesel and petro diesel are important for understanding the domestic industry's financial returns and why it has not been injured by the subject imports.

Slide 11 and 12 illustrates the geography of supply and demand into the United States. Slide 11 shows the biodiesel, the production of biodiesel is concentrated in the Midwest, while imports are consumed along the Coasts.

The next slide shows that the imports are geared to serving these Coastal markets. As you heard, imports face transportation and distribution hurdles to moving the product inland, while domestic production in the Midwest faces the same hurdles in getting its product to the Coasts.

While the performance of the domestic industry is--when the performance of the domestic industry is viewed in the context of these conditions of competition, Petitioner's simple injury story falls apart.

Slide 13 combines the imports for biodiesel and renewable diesel. I included renewable diesel because it is an important source of supply in California, and displaces biodiesel from that market.

Slide 13 shows that the subject imports, as well as imports of renewable diesel were both depressed in 2014. This occurred because of forward buying that occurred in 2013 before the expiration of the tax credits.

So 2014, the first year of the POI, was an aberration. In 2015, subject imports and imports of renewable diesel expanded again to match 2013 levels, as shown in slide 14. At the same time, the domestic industry

was temporarily shutting facilities and shifting production to other products.

The reason? As slide 15 shows, the price of petro diesel heating oil represented by the blue line was declining and the tax credit was not in place. This made biodiesel less profitable to produce in the United States, requiring an increase in the subject imports to meet the RFS target. And the domestic industry sources basically agree with this read of the market and what happened in 2015.

In 2016, the policy environment improved. The final RFS was announced in November 2015, and then the tax credit was reinstated. Petro-diesel prices began rising during the summer. As a result, domestic production expanded by 23 percent and reached record levels.

Clearly there's no indication of injurious volume effects caused by the subject imports. Import pricing was similarly driven by market and policy factors, not by the subject imports.

The underselling margins from the questionnaire are inconsistent with the market that is priced off of commodity. One would not expect the substantial and persistent difference in the prices of soy-based biodiesel, especially since contract prices are based off a widely traded commodity like ultra-low sulfur diesel.

Indeed, as shown in slide 19, the closing prices

of biodiesel in Houston, which reflect the prices of Argentine biodiesel, and Chicago, which reflect domestically produced biodiesel, track each other very closely and rotate between over and under selling.

This is what one expects of a commodity market. The under-selling margin in the Commission's pricing data do not reflect the experience of market participants at this table.

As John Cummings mentioned, the Indonesian product is produced form palm oil and sells at a discount to biodiesel produced from soy oil. The price of Indonesian biodiesel is also discounted because it carries a D6 RIN, which is less valuable than a D4 RIN, as shown in slide 20.

So one would expect biodiesel from Indonesia to sell at a discount from U.S.-produced biodiesel.

Petitioners need to explain what happened in 2016 when the subject imports reached their highest levels. Slide 21 plots the FOB price of B-100 domestic buyer diesel. The blue line against the price of soybean oil, the red line. The trend lines are very similar. But the spread between the two lines illustrated by the green line, begins widening during the summer of 2016--2015, and throughout 2016.

The trend is clear in the next two slides. The margin between the biodiesel price and the soy price in

slide 22 forms the basis for my impact assessment. The subject imports did not cause any cost price squeeze in 2016. In fact, the margins widened.

From January 13 to August 15th, the time when the price--the margins started to widen, producer prices from B-100 declined by 84 cents a gallon. The average level of monthly production and imports are shown to the left. After August, the margin began to improve. From September 2015 to December 2016, producer price increased by $1.04 per gallon and production and imports both increased. Again, there's no indication that the subject imports had a materially adverse effect on the domestic industry's performance.

Slide 25 is a scatter plot of monthly subject imports on the X axis, and the biodiesel margin with soy oil on the Y axis. The upward sloping trend line is inconsistent with the notion that the subject imports drove down the domestic industry's profitability.

With all these indicators pointing to an improvement in the domestic industry's financial performance in 2016, their reported operating incomes are puzzling at first blush. But in fact operating income is a very poor indicator of financial performance in this industry.

Look at the big picture from slide 2, actually. Tax credits exist to encourage domestic consumption of biodiesel, which also drives domestic production. The

producer operating income is negative when the tax credit is absent or not counted is to be expected.

Under these conditions, it is appropriate to include the tax credit amounts when assessing the industry's financial performance, and it is inappropriate to lie on operating income that excludes the very revenues that incentivize domestic production. For the same reason, it is appropriate to include revenues from RIN that were detached from the biodiesel and sold independently by producers.

Thus, for this investigation the Commission should give more weight to trends in net income, cash flow, and other measures that include the value of the tax credit. The Commission should give little, if any, weight to operating income.

Finally, the Commission should add revenues of RIN sold independently to all of these measures. Slide 27 shows that based on our existing database of questionnaire data, the domestic industry was very profitable if all revenue streams are properly considered.

Net income, plus revenu8es from independent RIN sales, expanded strongly over the Period of Investigation, including in 2016 when the subject imports reached their highest levels.

For all the foregoing reasons, the Commission has a sufficient factual basis to find that the domestic

industry has not been materially injured by the subject imports, nor is the domestic industry threatened by injury. The industry was very profitable in 2016, so it is not in a vulnerable state.

There is also less policy uncertainty regarding the RFS standard for biodiesel because targets have been announced for 2017 and 2018.

Crude oil and petro diesel prices have firmed, reducing a major irritant that dogged the industry in 2015. For at least these reasons, the domestic industry is not threatened with injury by reasons of the subject imports.

In addition, conditions specific to Indonesia severely limit its ability to threaten the U.S. industry with injury.

First, there are only two Indonesian producers that the EPA allows to supply palm-based biodiesel to the United States. Both of these producers have grandfathered capacity limitations which they cannot exceed.

Second, the palm-oil feedstock used by these producers has other profitable uses, including exports to the EU. Such limitations have kept Indonesian exports well below their grandfathered amounts, and this is unlikely to change for the foreseeable future.

Finally, because the palm-based biodiesel from Indonesia carries a D6 RIN, the current gap between the D6

and the D4 RIN values make sales to the U.S. market unprofitable. Both Indonesian producers will not be making any exports to the United States for the next several months. Indonesian biodiesel is no threat to the U.S. industry for the foreseeable future.

With that. I conclude my testimony and I look forward to your questions. Thank you.

MS. HAINES: Thank you.

MR. PORTER: That concludes respondent's presentation.

MS. HAINES: Thank you very much. Appreciate the helpful presentation. We will start the staff questions with Mr. Chang.

MR. CHANG: Good morning, and first off, I'd like to thank everyone for taking the time to come here and give your testimonies. I guess the first question I would have is about RINs. I mean that's been -- it's apparent that it's a huge component of the industry and sort of adds another complexity in terms of pricing, demand and other aspects of the industry.

And so, specifically the RINs we're dealing with are D6 and D4, and you all kind of went into some detail about the differences between the two, but I was wondering if anyone could explain to us more specifically what the difference between the two RINs are, particularly in terms

of what mandates they satisfy, what type of biofuels are eligible for the RINs and maybe why, more specifically, there's such a difference in value.

MR. WHITNEY: I guess I'll take that as the person who transacts a rather significant number of them. Every year the EPA sets their mandated target levels for each category. Most recently, we set targets for the conventional biofuel total target, so they set a total volumetric mandate and then that is around, just say roughly 18 billion gallons, slightly more than that, but just use the number 18 billion.

In sight of that total mandate, they carve out a piece for total advanced, which includes the D4 RIN and the D5 RIN--I'm gonna confuse you guys even more here--and they have a separate carve-out for your cellulosic RINs. So in the overall size of the pool of the mandates, corn-based ethanol is the largest contributor to the U.S. market in RINs, so call that 15 billion gallons, and the U.S. number is for biodiesel and total advance is around 4 billion gallons, just using round numbers.

So the size of the pools are very different and they have different fuels that are specifically able and eligible for those various categories.

MR. CHANG: So these pools, are you saying that in order to meet -- if an obligated party were to meet their

obligations in terms of retiring the RINs, do they need to retire certain amount of different kinds of RINs or could they theoretically meet their obligations if they retired just, let's say, D4 RINs? Or just D6 RINs?

MR. WHITNEY: So it's a good question. So they have this policy called nesting. And the RIN of a lower number can always be used for a RIN of a higher number. So a D3 can be used for D4, a D4 can be used for a D5, and all the D3, D4, D5 can be used for D6, but functionally speaking, the refiner's not gonna do that because there's a price differential between them. So refiners will submit for their compliance.

This year it'll be end of March that they will submit a certain number of RINs based upon their nameplate and their production of actual imports or production of diesel and gasoline, they'll submit a certain number of D6 RINs, a certain number of D4 RINs, a certain number of D5 RINs and a certain number of D3 RINs. So they're just functionally different pools with different values that have different mandated levels by EPA that's set on a yearly basis.

MR. CHANG: So I guess, just to make sure I understand, so I guess typically refiner probably wouldn't make their obligations using just one type of RIN? Or are there instances where that would actually happen?

MR. WHITNEY: They can't. They're required to ---- different categories by law. Now, theoretically, they could satisfy all of their D6 mandate with D4s, but commercially they would never do that because D4s are worth more.

MR. CHANG: Right, okay.

MR. CUMMINGS: And just to clear one thing. When you said retiring, that's a --

MR. BISHOP: Please identify yourself.

MR. CUMMINGS: Excuse me? Oh, John Cummings. And retiring is a different procedure that when you export a biodiesel or an ethanol, you have to retire that RIN, so a retired RIN doesn't count towards the obligations that they have.

MR. CHANG: So this is a question more specifically for you, John. You had talked about the separate capacities, the grandfather capacity and the non-grandfather capacity. If I understand that correctly, could I interpret that as essentially like two separate operations that you more or less have? Like you have a "U.S. compliant" operation and then a "U.S. non-compliant" operation? Is that an accurate way of describing that?

MR. CUMMINGS: I think that's accurate. We have a biodiesel facility that's part of a larger complex that has a lot of other operations in it, like oleochemicals and

crushing and soap production, things of that nature. So within that big complex, there's a biodiesel facility. And this concept of grandfathering is a bit confusing, I'll admit.

What the EPA outlined in their final rule of the RFS2 is they said, a plant that was under construction prior to the day the Energy Independence and Security Act was enacted on December 19th, 2007, could be grandfathered. And the volume that could be grandfathered, they looked to, first, what's in the air permit.

And in the U.S. air permits, there's a volume that's stated in the air permit. Well, in Indonesia, we don't have volumes in our air permits. So then, what they look to next is, what is the maximum volume in the first three years after that magic day of December 19th, 2007? So we look at 2008, 2009 and 2010, and what was the maximum that we produced in one of those three years, and then that is what sets our grandfathered capacity.

The capacity of the plant is significantly higher, but there's uses of the domestic market and other exports that that serves. So it's not necessarily a segregated capacity, it's more of a numeric capacity.

MR. SIM: I'm Edmund Sim, Appleton Luff, counsel to PT Musim Mas, the other Indonesian producer. To expand what John was talking about, the numerical limitation is --

yes, it is based on the facility that's producing biodiesel -- but the capacity overall and the how it is calculated is not just based on what comes out of the facility.

It also is what goes into the facility. Palm oil is made from a fruit. It's made from a tree. That's one of the distinctions between soya and palm oil. Soya, you grow a big field, you harvest it, and then you have to replant it. The tree's always there.

So what happens in Musim Mas is, the tree's planted and every year workers go, they cut down the fruit, fruit goes down to the plants, crushed, and you get palm oil. So as part of the grandfathering clause, Musim Mas and Wilmar have to have records that trace everything back, all the way to truckloads coming from the plantation to the facility where the crushing, for the distillates, so it's the entire traceability process.

So in a way, it's sort of like an ISO 9000. In fact, there is a standard like that for environmental purposes. As a result, your product, your capability to produce, your capacity is limited, not just by the facility that's making the biodiesel, it's also limited by how much can be harvested from these trees. And so the process of having more trees or the documentation, this is very, very difficult to meet, and that's one of the reasons why both our companies have very good reputations with regard to this

type of certification. And that's why we're grandfathered in. So this is a natural limitation of what comes out of the biodiesel plant that has been grandfathered.

The second point is the fruit that comes out of the plantations can be used to make crude palm oil, which is also certified as coming from traceable fruit, and that palm oil can be used to export to other markets as certified palm oil. It's a dual certification for the fruit and its output. So that palm oil can be sent to places like Europe or other places, which have a premium and which have different regulatory requirements on the use of palm oil.

The third point is that palm oil, again, another difference in palm oil and soya oil is that palm oil was used to make many, many different things. Musim Mas started out many, many years ago as a soap maker, because soap is made out of palm oil. And instead of the fact, the palm oil can still be used to make soap. The palm oil is used to make cooking oil for cooking, for frying stuff, for all kinds of things, for detergents.

The complexity of palm oil itself is, it can be likened to another version of refining, except instead of petrochemicals coming out, you have oleochemicals. So as a result, the capacity of the plant is also constrained by feedstock limitations for a diversion to non-biodiesel.

So at the end of the day, the numbers that are

in the petition, all that we're talking about, biodiesel, the whole thing in Indonesia, yeah. It's there. But only two factories, two facilities in Wilmar and Musim Mas are licensed, you could say, or permitted to export to the United States. And the demand for the inputs going into those facilities has to compete with demand for palm oil, compete for demand for other products made from palm oil, compete for demand for biodiesel for Indonesia and the European market.

MR. MCCULLOUGH: Mr. Chang, real briefly. Matt McCullough with Curtis, Mallet on behalf of CARBIO. There is a similar type of feedstock upward constraint that exists in Argentina as well, and it focuses on what are called EPA certified beans, and you have to segregate and keep those separate. And my understanding is that over time, that there's going to be more of a maximum limit of what is available to consume and produce bean oil and to produce biodiesel from EPA certified beans and I don't know, maybe Sean Doyle could speak to that a little bit.

MR. DOYLE: Yeah, exactly. I was hoping you would chime in. Sean Doyle, Louis Dreyfus. I was hoping you would chime in on that. I was making some notes here. I noticed in the petitioners' lengthy comments that they kind of presume that, almost like a simple slope, that well, if it was 100 million gallons two years ago, and then it

grows to 500, obviously it's gonna go to the sky. That's completely incorrect.

Then they use extreme examples of idle capacity in Argentina. That's all completely incorrect. The bottleneck to Argentine biodiesel coming to the U.S. is the ability to find these EPA identity-preserved beans that meet the EPA standard. It's already become a bottleneck. And you could find pricing -- the soybean producers in Argentina have to pay a premium for these soybeans to originate them, even in 2016, and it's a competition now, every year, to source those beans.

And by definition, the reason these beans are allowed in the program, it's quite similar to the palm. I mean, obviously it's EPA that ultimately allows both programs to be compliant. It's showing that the land has been in production for a long time, that this is not newly cleared ground that became newly cleared as a result of the RFS mandate.

And so there, if you just think about that, by definition, it will obviously, the trends in soybean production, there's a trend yield, 2-3% a year, just like there's a trend yield in U.S. soybean production of yields. Yield being production per acre. But the acres are going to be bottlenecked, and that -- our own internal services say we may have nearly have already reached last year.

MR. CHANG: That's interesting that you mentioned the bottleneck in terms of exporting to the United States from Argentina. After taking a look at some of the data that we've collected from the Argentine producers during the period of investigation, exports to the United States have increased.

And then that amount, relative to the amount of home shipments, there is a fair discrepancy between the numbers that we see. So I'm just kind of curious as to why home shipments are not accelerating, or shipments to the domestic market are not increasing or changing at the same rate as exports to the United States?

MR. DOYLE: There's a long history of soybeans around the world. But Argentina is a very efficient exporter of soybeans and soybean products because all of the soybeans are grown right around the river there in Argentina, if you've ever been there, many people here have.

And that's really their favor compared to any other origin in the world. You know, Brazil, a lot of times they're trucking it long distances and then also, just to get in one -- just look at GDP data. The size of their soybean economy relative to the size of their economy, their actual number of people is huge.

Soybeans are critical to the Argentine economy. And so to get to that point, why would you see more growth

in, say, volume to the U.S., I think it would just be along those standards. I mean you have just two very different -- you have a crop grown very efficiently and anyways, I guess that was it.

MR. WHITNEY: Just to give some context for that. The reason why it grew at a faster pace had to do with efficiency of the movements and the cost in the movements into the markets where our demand grew the most. So an ocean-going vessel of 9 million gallons of biodiesel will ship from Rosario to Houston for 11 cents a gallon. A railcar shipment of 25,000 gallons a time will ship and cost you about 25 cents a gallon.

So it's really freight efficiency and movement dropping into a place where our demand grew the most, the quickest over the course of the last three years. So our demand more than doubled over the last three years, and then growth in that demand was in the coastal areas, and the Argentine product efficiently landed in with cheap ocean-going freight into the U.S. market in an efficient way that allowed us to test it more efficiently as well.

So a big bucket of 9 million gallons, I tested it at origin, I tested it at discharge. I know I have 9 million gallons of compliant feedstock in biodiesel that I have to stand in front of the customers on. So if we have a problem with our fuel, I can't say, well, hey, these guys in

Iowa or Indonesia are the problem. They come back to the truck stop and say, hey, I've got a problem with my fuel.

A big bucket of fuel allowed us to test it more efficiently and guarantee our quality, whereas testing it just by truck by truck by truck or by railcar by railcar by railcar is really, really hard and really, really inefficient.

MR. DURLING: This is Jim Durling, Curtis, on behalf of CARBIO. The specific question about rates of increase in the two different markets obviously need to look at sort of the relative size of the market. That's what Mr. Doyle just testified to.

The other thing to understand is, on many different levels, this is a highly regulated market, and so you can't really understand the trends unless you understand the regulatory context in which they're happening. Thus, the creation of dramatically increased demand in the United States, which could not be met by the domestic suppliers, which created a very strong economic incentive to pull Argentine biodiesel into the market to meet the demand for RINs.

So why was there a big increase into the United States? You've heard from the business guys, but fundamentally, it's also a question of U.S. government regulatory policy. The U.S. government, EPA, essentially

said we believe, as a policy matter, we should have this amount of biodiesel that domestic industry cannot make it, therefore, we are setting a target because we assume there will be an increase in imports into the U.S. market. So that's the regulatory context. That's what pull Argentine biodiesel into the U.S. market.

MR. CHANG: Thank you for that. So I had just a couple more questions about the EU side of things. So as everyone's well aware, that's still sort of being litigated and it's unclear as to whether those orders are going to remain or not remain in place.

MR. DURLING: We can provide further documentation in the post-hearing, but just for now, the EU orders have been severely struck down by both the WTO and the European courts, and our latest information is that, in a very short time, the duties in place are going to be dramatically lowered.

So fundamentally, from a business perspective, the Argentine exporters are already doing business plans for 2017 on the assumption that they will be resuming exports to the EU because the best information we have about what's going to happen with the EU orders is that duties are either going to disappear because there's a question whether or not the Europeans actually want to continue the orders at all. At a minimum, the margins will be dramatically reduced to

the point where Argentina will be exporting.

MR. CHANG: So by very soon -- is that within the next few months? The next year?

MR. DURLING: Next few months.

MR. CHANG: Next few months? Okay. So I guess--

MR. SIM: I was counsel to the government in Indonesia in the EU anti-dumping case, and counsel to Musim Mas in the EU anti-subsidy case, which is called CBD here. And what my colleague, Mr. Durling, has said is correct.

And just to put some perspective on this, the anti-subsidy case was terminated by the EU. So there has been no finding by the European Union of any subsidies by either Indonesia or Argentina, for that matter. And the reason for that is both countries--and who I know the counsel very well--were able to submit information to the European Commission showing that the subsidy allegations were not based properly on WTO or European Union precedence.

So as a result, what the practice is in the EU is that, rather than the EU making a finding in the final determination, the Commission more or less told the European Biodiesel Board to withdraw the petition. And so the investigation was terminated. That is the practice in Europe.

So there has been no finding of subsidy by the

European Commission. The dumping case, there is an order resulting from what was challenged in the European court as a major defect in the application of the anti-dumping regulation by the Commission in the case. And so at the lower court, the lower court found that this defect in the administration of the law was sufficient to render the implementing regulation--which is what they call the order--invalid, nullified, as a matter of European law.

And so the Commission has appealed this to the higher court. The main thing that is different between Europe and the United States is that in Europe, when a dumping finding is found to be invalid, the whole thing goes away. There's no recalculated rate. The thing just goes poof. Because the concept of a remand, like we have in the American system, is not really followed in Europe.

So my understanding is the same as Mr. Durling's. If we get this final ruling in the court case in the EU system, you could see the dumping regulation be nullified and disappear fairly quickly. And so I think you could see people, both in Indonesia and Argentina in the market fairly quickly.

MR. CHANG: Thanks for clarifying that and providing a lot more context as to what's going on over there. So while we're kind of still in the Europe sphere, let's assume that the duties are either gone or drastically

reduced and you all start tapping into that market. Are there--I'm assuming you're gonna be dealing with a different regulatory structure than you would here--so in both cases, so in the Argentine case, is there --

What sort of restrictions or avenues, what regulations are you gonna be dealing with? In Indonesian perspective, obviously as we discussed earlier, EPA regulations place some sort of natural or cap on the amount that you can export into the U.S. market. Does the EU have a similar sort of structure in place? And if so, would you be able to elaborate as to what that may be?

MR. DURLING: At least from an Argentine perspective, I think what's important is, the Argentine suppliers have longstanding business relationships in Europe. And so when the restriction imposed by the EU AD/CVD measures are lifted --

I was just in Buenos Aires talking with all the exporters -- all of them are making business plans on the assumption that they will basically renew those existing business relationships. There is significant demand for biodiesel in Europe, and they would expect to be able to meet a portion of that demand. And no particular--other than AD/CVD--there'd be no particular regulatory restrictions on their ability to serve the European market, in fact, what the Argentine exporters explained to us was

that in Europe, to a greater extent than the United States.

There were comments earlier this morning about, just sort of, the customers would be just as happy with petro diesel. There's a greater intrinsic demand for biodiesel because it's greener and it's better for the environment. And at least their perception is, in Europe that aspect of demand is a much bigger factor than it is in the United States.

MR. SIM: I spent many years on the European case. The main difference between the European market and the U.S. market is the feedstock. The feedstock in Europe is called by the nonpolitically correct, rapeseed. So we call it RME. You call it canola. We call it canola in the United States. So that has very different physical characteristics, both from soya and palm oil.

The second point is that the European market, or the regulations, I would say from my own observation, not as complex as what we've talked about here with the BTC and the RINs, but it is sufficiently complex enough that I think we'll have to give that to you in the post conference brief. It will not be as difficult to understand as a RIN or nesting and all that, but it is still relatively -- the market structure in Europe is different.

MR. CHANG: Okay, that's all the questions I have. So if there's anyone else that --

MS. HAINES: Thank you. Mr. Haldenstein?

MR. HALDENSTEIN: I'm Mike Haldenstein in the Office of General Counsel. Thank you for coming in this morning. I didn't hear any reference to the domestic like product and I'm hoping respondents' counsel can take a position on that. If you support what the petitioners have proposed or if you have something different?

MR. PORTER: For the purposes of the preliminary phase, we can on behalf of CARBIO with the Argentine respondents, we will not be disputing the like product as defined by petitioner.

MR. JANZEN: And this is Bernd Janzen, Akin Gump, on behalf of Wilmar. The same for the Indonesian industry. We are not disputing it for the sake of the preliminary phase.

MR. HALDENSTEIN: Thank you. Let me ask about the domestic industry definition as well. The petitioners have said in their petition that the companies, the importers who are blending 99% biodiesel, should not be part of the industry because it's not sufficient production-related activity. I think I heard Mr. Doyle say there wasn't much to it, to the process. Do you agree that these blenders, the 99%, should not be considered domestic producers?

MR. PORTER: I think what we should do is

separate your question to a factual component which you can ask the industry, and a legal component which of course, the lawyers can answer. With respect to the legal component, we will need to review the confidential questionnaire responses a little bit more in detail and we can give in the post conference submission our position, whether the so-called U.S.-related production activities are sufficient or not. I think perhaps you can ask the industry guys about what aspect of that you have a question on.

MR. HALDENSTEIN: Yes, would you like to elaborate on your prior reference to the --

MR. DOYLE: I can just speak best about my experience. So the capital needed to sell--say all the product we produce is B-99 instead of B-100--the investment to do that was insignificant. I couldn't even tell you what it was. I don't think it was much at all or -- I don't even know, it was obviously something, but very insignificant.

But the greater question is why do I try to sell all of my material as B-99 instead of B-100? Well, the obvious reason is, like any sale, it's very often what the consumer wants. The consumer gives me a bid as B-99. Why? Maybe it's just easier for them to let me handle getting the tax credit from the government than them handling it.

And so that's just been the company practice of the trade that, you know, if someone comes and bids for 5

million gallons from March through August, they're bidding me at B99. Another reason that is worth mentioning is there was a IRS ruling a year or two ago that the biodiesel tax credit itself is not taxable, so if you think about it in these terms --

If I get a dollar a gallon credit from the government, and I'm a company that otherwise has a tax bill, because I'm doing many other things in this country--I'm merchandising, I'm exporting soybeans, I'm producing sugar. I'm doing lots of things in this country -- essentially that dollar a gallon is worth a gross up of my expected tax rate is. So it's really worth like a $1.35 a gallon, or like a $1.40 a gallon, depending on what your expected tax rate is.

So that's why it's quite in the producer's interest to try, especially if you know you have a tax bill--I mean maybe not everyone has a tax bill -- but to try to sell your product as B-99, and then implicitly -- so again, it's like the comments I made in my speech. If you were to focus on just the sales price of B-99 say in 2016, when there was a credit, and you compared that to just the sales price of B-99 in 2015, when there was no credit, the deep irony is that the 2016 price and the implied 2016 margin would be way lower than the 2015 price and the implied 2015 margin.

It's just -- it's just fun with math, you know

what I mean? When I made my sale, I knew I was getting the dollar a gallon. The credit existed, I knew I was getting it. It's implicit in the price in 2016 at which I offered my B-99 product. In 2015, me or my trader is making a probability judgment on the likelihood of getting a retroactive credit on the sale, and then sharing that 50-50.

As you can say, it's a lot to say in one sentence. It's a lot more to try to sell your product with that contention. So you have to gross up your B-99 to account for all of that uncertainty and the eventual sharing should it come back of said dollar a gallon credit.

MR. DARLING: This is Jim Darling for Curtis. Just a point of clarification. This particular tax incentive by the U.S. government is unique in that you have a choice. You can either credit the tax credit against your federal excise tax liability or, or the blender can obtain a cash refund from the U.S. government. So unlike some other tax credits, this is a tax credit that can be turned into cash, and that's a key part of understanding the economics of this particular tax credit.

Whether or not you have tax liability, the point Sean was just making is that if in fact you have tax liability, in fact those dollars are worth more to you because it's not just a dollar; it's a dollar of income. It's a revenue stream on which you don't have any tax

liability. So the economic effect of it, it's like getting $1.40.

But at a minimum you have a cash value for this tax credit, this very important factual distinction, and as evidence we'll be supporting in our post-conference brief, the most recent 10-K submitted by REG, the largest of the domestic producers, because this is their explanation of how they view the tax credit. They view it as the equivalent of cash.

MR. SZAMOSSZEGI: Andrew Szamosszegi from Capital Trade. I think this started off as a like product question, but a domestic industry question. But in any event, I think what you've heard provides more support for the notion that you should focus on net income and cash flow, and all the other financial measures that capture the tax credit when you are reviewing and considering the financial performance of the domestic industry.

MR. WHITNEY: This is Michael Whitney of Musket. Just to add some color on the blender's tax credits, prior to I believe it was 2009, biodiesel that came to the U.S., whether it was used in the U.S. or not was eligible for those dollar a gallon tax credit, and we saw a market of use called splash and dash, where people will bring in biodiesel, full biodiesel B-100. They'd splash in .01 percent of diesel into it and then they just take it

off somewhere else.

So the IRS fixed this, and so currently as the law I guess recently expired, the product has to be produced or consumed in the U.S. So an Argentine cargo has to come to the U.S. first and make sure and guarantee that it is used in our fuel supply in the U.S.

MR. HALDENSTEIN: Thank you. Let me also ask about the distinction between a soybean-based biodiesel and palm oil. Is that -- my understanding is that the Indonesian product is palm-based, while the Argentinian product is soybean. Petitioners have presented it as all the biodiesel meets the standard and it's basically interchangeable.

But what I've heard from the Respondents is that it's much more complicated and that there are distinctions in use. But I haven't heard anybody suggest that the subject imports from these two countries should not be cumulated. Does anybody want to --

MR. JANZEN: Yeah. Maybe I can start this. This is Bernd Janzen with Akin Gump on behalf of Wilmar. Yeah, you've heard a lot of testimony this morning on the policy-based and physical differences between the Indonesia PME and SME generally, and we will be laying out in detail in our post-conference brief, based on the Commission's standard test, the reasons why we think cumulation is not warranted in this case, whether in the injury or the threat

context.

And just to comment briefly on the issue now, as Mr. Whitney said earlier today, this is not a commodity product, and that's true for a number of reasons, again rooted in both law and in the physical characteristics of the PME and the SME. In fact, from the EPA's perspective, as Mr. Cummings said, the PME is not even biomass-based biodiesel.

Why? Well, because it does not -- it is legally not capable of generating the D-4 RIN, and that policy, that legal distinction right there necessarily means that its participation in the U.S. market is fundamentally different from that of the SME. I think Mr. Whitney spoke to that point as well this morning, in explaining that this is not a pure or a true commodity market.

So there are a number of policy or law-based distinctions based on the operation of the RFS and the EPA's regulation of biofuels more generally, and then there are also physical distinctions that relate in part to the cloud point and cold properties of the PME, which is not -- which is not able to be used in colder climates as easily as the SME.

So that places some geographic and temporal limits on the engagement of the SME, of the PME in the U.S. market. So really we have a number of factors rooted in the

EPA regulation of this industry, and in the physical properties that all add up, in our view, to decumulation in this case, and we'll explain in detail post-conference, according to your factors.

MR. HALDENSTEIN: Thank you. So when it's blended down to -- I mean my understanding is that it's used at like a 10 percent or 20 percent level in diesel, with diesel fuel? At that concentration, does it matter what, you know, whether it's SME or PME or whatever?

MR. WHITNEY: So this is Michael Whitney with Musket. The short answer is yes and yes and yes. So the major equipment manufacturer warranties on Class A trucks, just think, you know, these big huge semis that move our goods around the country, they have a warranty limitation of 20 percent.

So it's a customer decision between us and our fleet customers of what kind of biodiesel penetration that we're going to give them, and this is sort of cost and a value tradeoff. So the more biodiesel we put in there, the more discount they want. We adjust these things seasonally based upon both the type of biodiesel supply we have, the inherent use we're going to have for the biodiesel. Is it going to go sit in a tank or is it going to turn really fast, and also what time of year it is.

So functionally speaking, and John spoke to

this rather eloquently, which is in the summer, we can use the PME a little bit more easily. But it also creates other limitations and challenges in which to move it around the country. You need different assets to do that. You need an insulated trailer, for example, which is just like a big thermos kind of riding on the back of a truck, to make sure that the product doesn't go below a certain temperature and gel up.

And so every biodiesel gallon from every plant has different qualities. So the biodiesel from Argentina has a much higher quality and a lower specification than the biodiesel under ASTM specifications. Now many U.S. producers can produce to that same quality and specification, but in every different market and every different use, we look at the physical properties and characteristics of the biodiesel to determine suitability for use.

So biodiesel from one plant in Iowa may not be suitable for use in one application for us, and then the biodiesel from Indonesia may not be suitable for another use. So we look at each one of these buckets in each one of these plants from which we buy and which we audit to put into our fuel supply. We look at them as unique kind of buckets of kind of quality components that make up the qualities of the fuel.

MR. JANZEN: And Mr. Haldenstein, if I could just supplement my earlier comment, Bernd Janzen with Akin Gump. There's also an important pricing consequence to these policy-based and physical differences.

Mr. Cummings actually spoke to that this morning, but I just wanted to reiterate that because of both the regulatory reality of PME in the U.S. market, combined with some of these limits that Mr. Whitney again just spoke to, there's a discount associated with PME. That's something that I think John works day in and day out, you know, to deal with in interacting with customers.

MR. HALDENSTEIN: Thank you. You mentioned the seasonality for this product. That has to do with the cloud point or the PME or is it just, you know, the difference, the distinction in corps in Argentina? I was wondering about that, and whether it can just be stockpiled in the U.S., or does the market not work that way?

MR. WHITNEY: This is Michael Whitney with Musket. There are different limitations on stockpiling of biodiesel, because when it sits in tank, certain of its qualities degrade over time. So typically you just don't want to put biodiesel, particularly soybean-based biodiesel in a tank for a long period of time, because a certain aspect of it called the oxidative stability can deteriorate.

Now our ASTM limits set that level at a

minimum of three hours of oxidative stability, just to pick one example, and if that biodiesel falls below that number, then the RINs are no longer valid, meaning it does not meet the ASTM spec and then the dollar a gallon tax credit, if available to us, doesn't become available any more.

So functionally speaking you can store product in different parts of the country, but functionally it becomes rather challenging because you have to continue to test and monitor to make sure that the product continually meets the minimum specification for the RIN validity.

MR. HALDENSTEIN: Thank you, and who is -- who are the blenders who are blending it down to 20 percent?

MR. WHITNEY: I can't speak to what anyone else does in the market, you know. In terms of our retail chain, at certain of our 450 stores we do blend penetrations based upon economic value to our customers. More broadly speaking, in the summertimes we'll do higher blends, usually not to exceed 15 percent, and in the winter blends, whether depending of course in consultation with our meteorologist, we'll drop our blends if there's cold weather and other things.

But our maximum winter blends tend to be around ten percent or five percent or in some very northern climates like North Dakota and in South Dakota, we do zero percent.

MR. CUMMINGS: And I just wanted to add a little bit. I mean I think -- John Cummings with Wilmer. You know, I think Musket has done more than anybody as far as understanding how they can move the biodiesel around and the cloud points, and but I think some customers of ours will say to us I will only buy your product from April to September, period, and these are, I guess, the quality assurance departments of different oil companies, you know, look at all these things and they get very afraid, I guess you could say, of cloud points and the cold properties.

Some customers, like Exxon Mobil for example, would never -- have told us that they'll never buy our product period ever, because of the cloud properties. So there are a lot of restrictions and, you know, some customers have learned how to blend the product in there, you know, petroleum diesel at certain points. But even petroleum diesel has a problem at certain temperatures so, you know.

MR. WHITNEY: So this is Michael Whitney again. Just to clarify, the reason why we're able to take and blend John's product there is because we control custody of the product all the way from the point of origin to the point of distribution. So if you're someone like Exxon Mobil, where you're bringing it into a commingled system where you're redistributing it back out, it's much more

difficult to manage and maintain your quality that goes out in ten different directions.

So we do our blending of the biodiesel into diesel fuel at the retail location. So it allows us to monitor and manage the quality on a truckload-by-truckload basis, so that we can make sure that we're giving our customers the acceptable product for their needs.

MR. HALDENSTEIN: Thank you. I have a question about the non-subject sources. Are there plentiful non-subject producers, exporters that qualify for RINs? Because what I heard was that there's -- even in Indonesia there are certain companies that don't qualify and aren't grandfathered.

MR. SIM: Edmund Sim from Appleton Love. The answer to your question for Indonesia is no one is grandfathered except the people at this table. So it's only Musim Mas and only Wilmar. No one else is grandfathered.

MR. PORTER: I'm sorry, Dan Porter with Kirsch. The clarification of your question. When you say "non-subject," there are two types of non-subject. There's non-subject product from the country or there's non-subject country and there's non-subject product from the non-subject. Does your question encompass all of that?

MR. HALDENSTEIN: I guess from non-subject countries, product within the scope from no-subject

countries.

MR. PORTER: So product in the scope from non-subject countries.

MR. HALDENSTEIN: Yes.

MR. PORTER: Okay, thank you.

MR. SZAMOSSZEGI: Well, we'll look at this and provide something, discuss it in our post-conference. But the main non-subject countries that service the U.S. market now are Canada and Germany I believe. They don't -- I don't think they can supply nearly as much as the other countries can of soy-based. But there's also renewable diesel, even though it's out of scope, that can maybe service some demand in certain places under certain conditions.

But the problem with blocking these two large providers out of this market quite frankly is that the EPA has a mandate, mandated target that it wants to meet, to get fuel into the U.S., renewable fuel into the U.S. system. And at the same time it's balancing the need to have adequate supplies and a price that enable it to be acceptable to consumers.

And so I mean that's another thing to consider here, is that we have a mandated amount of production by a U.S. government agency and multiple agencies are involved, and we -- in order for this market to function properly with sufficient biodiesel, the subject imports are really

important to have.

MR. McCULLOUGH: Mr. Haldenstein, Matt McCullough with CARBIO. Just to add to that point, if you look at some of the public information on domestic capacity in the United States, it's fantastically optimistic. But I think if you look at the data you've collected thus far in terms of production figures and capacity figures, I think it gives you a much better story of this industry in terms of production that looks much more in line with what EIA reports as production in this country.

So you appear to have captured what is the industry here, and if you look at those capacity numbers and compare it to the RFS, which is going to go to 2.1 billion next year, it's very clear that this industry is not even remotely close to supplying demand in this market.

MR. WHITNEY: This is Michael Whitney at Musket again. Just to give some more color around other sources that are non-U.S. or non-Argentina or Indonesia, Canada was mentioned obviously. We don't actually buy imported -- we don't import Canadian product. We buy it at the border for -- which is not registered in Canada for tax reasons. So there is a significant amount of Canadian product that comes to the U.S.

There's also European product. One of the Petitioners owns a plant in Germany, and they take

U.S.-based soybeans to Europe to crush and then they bring the biodiesel back. There's also production in Korea that we've imported at times in the past, and there's other plants in Europe that we've imported from in the past.

It really depends on what your feedstock is and whether it's EPA-compliant. So you can always use waste oils and EUCO at any plant any place that has an EPA registration. It does not need to be grandfathered. So if you are able to get, use cooking oil in sufficient quantities to make biodiesel, you can make that biodiesel wherever you want. Used cooking oil and waste oils tend to get double treatment and other things in Europe, so that they tend to stay in that market from a value standpoint.

So functionally speaking, the supply chains on other plants say in Europe and other places, have to kind of make sense, that you need to have the feedstock conveniently located, EPA-approved feedstock conveniently located from a freight standpoint, to go to that plant and then to come back to the U.S.

So effectively you're trying to move something twice, which in -- you know, in a fuel market environment it's very tricky to do.

MR. HALDENSTEIN: In order to get EPA registration you need to approach the EPA and go through a process, I assume? Does that take a long period of time or

is it relatively quick? Does anyone -- can anyone address it?

MR. CUMMINGS: Yeah. It is -- it's a pretty extensive registration process, where you have to get a -- John Cummings with Wilmar -- where you have to get a qualifying third party engineer to do a full engineering study against a pretty extensive set of criteria and then they do a report, and then EPA processes that. If they have questions, you might have to change things and then, you know, they ultimately will accept it or not.

I don't know they've really turned down too many plants, but at the moment it's an extremely lengthy process. It will take at least six months to a year because of staffing, I think, at EPA.

MR. HALDENSTEIN: And these are plants anywhere in the world?

MR. CUMMINGS: These are plants anywhere in the world, yeah. That's why having this qualifying -- they have a criteria for the engineer that you select that has to meet certain requirements.

MR. WHITNEY: This is Michael Whitney with Musket. You can look on the EPA website and it will show a list of all currently registered plants and where they're located. So that information is publicly available. So you can see a list of all plants that are qualified to make

EPA-qualifying material. The twin piece to that is that they have to use EPA-qualifying feedstock, but that information's publicly available.

MR. HALDENSTEIN: Thank you. I have no further questions.

MS. HAINES: Thank you. Next will be the economist, Michele Breaux.

MS. BREAUX: Good morning and thank you for showing up today. We've had a really great panel and learning a lot about the biodiesel industry. So my first question deals with, and this has sort of been mentioned before, but what factors do your customers consider when purchasing biodiesel?

MR. DOYLE: Sean Doyle, Louis Dreyfus. They really just like, you know, I learned my first day as a merchant, they focus on three elements. There are three elements to any cash contract. It's location, time or really four elements. Location, time, quality and quantity. And so, you know, like the example I walked through, you know, the day of the January crop report, the soybeans, you see a bigger crop than expected, the market expected.

Soybeans break in price. Soybean oil breaks in price. Heating oil doesn't break. RINs don't break, and that RIN production margin increases by -- and I just looked at a chart before coming in -- I mean there are days that

that increases by ten cents a gallon that day.

That's the day that, you know, me or my trader gets a phone call from Michael Whitney or his trader, bidding on ten, twelve million gallons of biodiesel, because he's looking at his RIN production margin and sees an opening there. So he wants, he wants to know, you know, what locations I can sell to, what quantity I can sell to, what time and what quality and what price.

MR. WHITNEY: This is Michael Whitney with Musket. On the retail side, there's a far greater kind of complexity in terms of how we look at our biodiesel penetrations with our customers. A lot of how we sell our customer is really about the availability and the thoroughness of our network of retail stations throughout the U.S. So that's part of it. So can we service that customer with availability to fuel for all of their fleets?

So a lot of it's just sort of location, availability, and then ultimately it comes down to discounting on prices, whether it's clearer USD or with biodiesel. Typically what happens is that we try to find a price point to give the customers biodiesel that they're comfortable with.

So the customers generally state that it gets lower mile per gallon efficiency, which certainly drives up their variable cost for their businesses, and then they also

have other maintenance-related issues on the filters and other things like that. So it's an ongoing bilateral discussion on a dynamic basis with our customers about what kind of discounts we have to give them in order to give them certain levels of biodiesel. That goes market to market and customer to customer.

MR. CUMMINGS: I think they said it very good, but I think, you know, one of the big things that -- and I think imports can come in in a large boat, as Michael said, versus supplying the same location with 100 rail cars, which is very difficult to test, very difficult to manage. So I think that has a big factor.

I think reliability of the suppliers also is a big factor. You know, there are a lot of domestic producers that, you know, you might not consider reliable, or at least the customers might not. Whereas a large company like a Wilmar or a Louis Dreyfus we stand behind. If we sell you the product, we're going to deliver that product and if we don't deliver the product, we make good on that.

That's not -- that's important to the customer, because he's got a supply chain that he has to fill, and so that I think is a big. The ratability is -- I think Michael touched on this in his testimony earlier as well, that you know, many of the domestic suppliers who maybe give them a truck or two a week, whereas he needs more

than that and he needs it reliably and ratably in order to feed his system.

And you know, there's -- Michael's one of the bigger buyers out there, but there are numerous others that are maybe half his size or a quarter of his size but have absolutely the same requirements. So that's an area that we fill.

MR. WHITNEY: This is Michael Whitney with Musket again. Let me add a little bit of color about how do we look at the buying kind of from our suppliers, both domestic and foreign. We mentioned a little bit about the RINs, that the RIN comes attached with the fuel.

And so that gallon has a unique RIN ID number, and when we blend that fuel below 80 percent per the RFS regulations, we're able to sell that RIN and then it has a marketable value to the refiners, who are both the suppliers of diesel and also the consumers of RINs.

And that RIN is extremely important. So the name and the ID and the creditworthiness of the seller matters a lot. We've had multiple instances in the past, and you can look this up. There have been numerous actions on RIN fraud, where the blender is left holding the bag. So if we go and we've sold Exxon fraudulent RINs, they look to us and say you're going to have to replace these, and this cost can be in the millions and millions of dollars.

So first and foremost, we want to do business with creditworthy counterparties who can engage in these large transactions, because we have hedges and other things in place around it. I know that when I go to Louis Dreyfus in Claypool, Indiana, and I contract for three million gallons a month for truck liftings, I know that he's got three loading bays and I can load 27 trucks a day efficiently and quickly to drive into our supply chain. That's an important thing.

I also know that he's going to he's going to deliver me these gallons. I've got hedges on and other things that are at significant financial risk if he doesn't perform. So we need to be with creditworthy counterparties that are going to replace the RIN if it's found to be invalid, that have efficient loadout and infrastructure to meet our demand in the time and the place that we need it.

And then we look at it really in the context of supply chain and of proximity to the point of blend that we put into the retail supply. So our demand for most of these products really emanates around a fairly tight circle of where the plants exist, because it makes the most economic sense for us to move the product in the supply chain that way.

So our largest truck stop is in Gary, Indiana, and it's down the road from Claypool, Indiana, and that's

where all those trucks go. They go down the road in a quick, efficient fashion. So not every producer can supply my needs in a big beast like Gary, Indiana like this guy can, and that's exactly what we look at.

We look for big counterparties that are creditworthy, that are going to stand by their transactions, that have efficient loadout, efficient logistics, that have say rail cars. Not all the domestic producers own rail cars. So then I have to go out and lease a rail car, to go pick it up and bring it into my rail sites in order to move it to the supply chain.

A big producer like this guy has a fleet of rail cars and he will sell me, on an FOB basis, including his cars. Not every U.S. producer has the kit, if you will, the sort of infrastructure kit to supply our needs and where our demand is.

MR. CUMMINGS: I just wanted to add, this is John Cummings with Wilmar. I just wanted to add one element of it. There's an EPA process called quality assurance program, so QAP, and I'd say probably 100 percent of the product that's imported from Argentina and Indonesia goes through this fairly rigorous process, where there's several third party accounting firms that will audit all the documentation, literally truck bills of lading from the plantation to where it's crushed to where it's processed

into biodiesel, and they do that whole chain of custody.

Because you've heard a couple of people talk about this rigorous, you know, process to get EPA beans and RFS-qualifying feedstock. They need to be able to prove and stand up to an EPA audit, that the product that they're buying came from land that was under production prior to this magic date of December 19th, 2007.

And it's a very difficult process to comply with, but I think it gives us a lot of credibility that we can pass these rigorous tests.

MR. DOYLE: Sean Doyle, Louis Dreyfus. I just wanted to clarify, in case there was any confusion. When Michael was speaking about buying from Claypool, that's our Claypool, Indiana 99 million gallon production facility that services Gary, Indiana, facility. Thank you.

MS. BREAUX: Thank you very much for your answers. So I want to turn to, if anyone filled out an importer's questionnaire or producer questionnaire, we have pricing products. We have three of them. One is B-100, without RINs. Then with RINs--sorry, B-100 with RINs. Then there's B-99 with RINs valued at 1.5 RINs per gallon. And then there was, product three was what is B-99 without RINs.

And so I wanted to open up mostly to the importers. Does this capture what is being sold from Argentina and Indonesia in the United States?

MR. WHITNEY: This is Michael Whitney with BioSphere.

So because of the blender's tax credits that it has to be produced or consumed in the U.S., you can only import B-100 effectively. And so the blend from B-100 to B-99 happens in the U.S. So we exclusively import B-100 with RINs. And then the RIN in said case is actually generated by the importer of record.

And so whereas a domestic facility, the RIN ID will attach to the nameplate facility say in Claypool, Indiana, from Louis Dreyfus. When we bring in a cargo from Indonesia or Argentina, we are the ones submitting the paperwork to the EPA proving that it has met the quality assurance program, in the case of all of our imports, and then we as BioSphere Fuels, is the generator of the RIN. We are the RIN ID on that.

So I found the questionnaire a little bit tricky, but in terms of the narrow way we look at the world we only import B-100 with RINs. The one nuance of course is embedded into the different RIN calculations for the Indonesian RIN, which is a D-6 RIN. So there's a different value component in terms of how we sell that RIN to the market. And at any given time that those RIN prices can fluctuate rather significantly, and so you can't always take and sell all your RINs in the market at any given time.

So the time and data series on the RIN side was a little bit harder to look at. So we looked at our weighted average RIN prices for all the RINs of all sources, all year to try to get just a macro price on it, but functionally speaking in terms of our inventory of both RINs and physical product, it was difficult to really pull out the RIN component on a case-by-case basis in terms of what we achieved for this specific RIN.

MR. SZAMOSSZEGI: Andrew Szamossezgi from Capital--oh, were you done?

MR. CUMMINGS: I wanted to make one point. This is John Cummings with Wilmar. I don't think the table had a place to detail how much blender's tax credit you claimed. That was the one thing I think that was kind of missing from that table. Because you say you bring in all B-100, and then you sell B-100 with RINs, you sell B-99 RIN less, but you also need to have that you've gotten revenue from claiming that blender's tax credit. I think that was one thing that was missing from the table.

MR. WHITNEY: This is Michael Whitney, just to add some more color. The expiration of the blender's tax credit in '15 also changed the calculation. So it wasn't until December that the 2015 blender's tax credit was extended retroactively. So the whole course of dealing with all parties domestic or foreign made assumptions around the

probability of the tax credit. Based upon the law, we were forced to import only B-100 with RINs because of where the tax credit was.

So there was a rather large distortion in the '15 data based upon the splits in the probabilities, and then what we actually imported in '15.

MR. DOYLE: Sean Doyle, Louis Dreyfus. I'd just like to expand on that last point you made. Not to make it more complicated, but there was a significant concern in the trading community that the credit, if it came back, would come back as a, what they call a "producer's credit" for say U.S.-only production. So that would be another reason that if you're buying something that, say in 2015, when there is no credit in place and you don't know if it's going to come in as a producer's credit or a blender's credit, you know, essentially American material has like an inherently higher value because it captures the credit either way. Whereas the foreign material, you're like, oh, I don't know, you know, what are the chances it comes back as production, you know. So not to muddy the waters, but it's true. So I just wanted to get that out there.

MR. SZAMOSSZEGI: Andrew Szamosszegi from Capital Trade. And I think for all the reasons you've just heard there are, we believe, significant issues with the pricing data and the way that they were collected.

We're concerned that maybe, probably some segments of value are not being captured properly. And so I think, you know, we've heard some talk about commodity from the economic standpoint. Wheat has hard red, spring, Durham, hard--soft red spring. So there's lots of different gradations of wheat, right? But wheat is still a commodity product. And so from a pricing standpoint, biodiesel competes in a market, and with a lot of other biodiesel product, and is part of the energy market. And so it is a commodity from an economic standpoint.

And so as a commodity, we don't expect to see large under-selling margins. It just doesn't happen. There's something wrong with the data, really. And, you know, we'll think about ways that we'll want to improve upon the collection of the data, but I think the point is that it's more helpful to keep in mind what's going on at the exchanges to just see how prices closely track each other in different regions. And that's a better picture of pricing in this industry than the under-selling data.

MR. WHITNEY: This is Michael Whitney. Just to add a little bit more color to the 2015 kind of pricing data, that price would have included B-100 with RINs, of whatever RIN type was appropriate for the type of product.

In 2015, in fact in July there was a Senate Finance markup that included a shift of the biodiesel

blender's tax credit to a domestic-only producer's tax credit. And so we worked through the year under the assumption that there was significant probability that the tax credit would only be available for domestic-only producers, and therefore the value, if I bought it from say Indonesia or Argentina versus from the domestic members was impacted by that. There was a perception that there was a likelihood of greater value to the domestic producer and therefore the importers would have to price into the probability that they may not be able to get the B-100 credit.

MR. DOYLE: Do you mind if I--do you want to go first? Sean Doyle, Louis Dreyfus. And then pivoting to 2016, you know, not just because I'm a soybean person, but one needs to look at what happened in soybeans in that year and then how that relates to when transactions of biodiesel took place.

You know, at the beginning of 2016 we were awash in soybeans. And if you were to read any reports the question was, you know, what are we going to do with all these soybeans? Then you had a record flooding event in Argentina. You had everyone essentially over-estimating the crop in Brazil, and soybeans had a very sharp rally. And soybean oil prices were not immune to that rally.

And that's the world we live in. You know, the

people sitting at this table were commodity merchants. And so to seek to--and the margins--to seek to protect ourselves against these kinds of unknowable events, you know, 15 inches of rain in Argentina, we transact on what's called "the basis" or "premium," right?

So when I sell to Muscat, I'm selling to him at cash by diesel sold very often at a premium to heating oil. Even if I transact on a flat price that day, I will immediately transact in a futures contract to turn it into effectively a premium.

And so I, being me on the soybean side, I prefer to try to make as many of my shorts, keep them as premiums to bean oil as possible. Because I don't know anything about the heating oil market. I know things about the soybean market. So I try to keep, you know, when I make a sale, even if I sold to him as a premium to heating oil, I will immediately go in to the futures contract, the futures market, buy bean oil, sell heating oil, to effectively convert it to a premium to bean oil for me.

Now that's a long story, but it gets really important because again you think about what actually happened in 2016. A lot of--you know, with all the excitement about the--just like my example about the crop report, we had twin things going on at the beginning of the year.

We had quite low soybean and soybean oil prices. We had the credit had been passed. We also had that the RFS had what I call teeth, like the mandate was leading to higher RIN prices, right?

That increased the RIN production margin for a musket from Michael Whitney. And so he seeks to lock in that RIN production margin, and he did that by transacting on volume. And to an extent he would buy volume from us at our domestic plant, and he bought volume in whoever could offer him volume.

And so I would imagine--I have not seen it, but I would imagine if one were to look at the data you would see, you know, prices--high volume of, it could be of anything, but it could be domestic transacted at the beginning of '16, and then prices kind of tended to go up, right? And so I would imagine you probably had a tendency towards more imported material at the beginning of the year, slightly less at the end, but the nature of big vessels trade more easily in more volume. Smaller things trade more ratably through the course of the year.

But then, again, it would cause the prices to look very weird, right? Because you were in the midst of this big change in the soybean balance sheet throughout the year of 2016. Thanks.

MS. BREAUX: Alright, to kind of--I'll touch on

soybeans in a minute and their effect--but I kind of wanted to bring it back to the tax credit.

And so when giving, or when submitting pricing data, and even giving it for--having it for your customers, was the tax credit included in the pricing data at any point?

MR. WHITNEY: This is Michael Whitney with Muscat. The tax credit as we see, just as the RIN price, is just embedded in the price of the product that we pay for it. So if we buy B-100 with RINs, we include the value of the tax credit, whether it's presence or whether it's probability of it coming back retroactively. So we just look at the tax credit and the RIN as just value components to the product that we're buying.

MS. BREAUX: Okay. Alright, anyone else? Okay.

MR. CUMMINGS; I guess when we filled it out, you know, it had--I wish I had it in front of me--but this is John Cummings with Wilmar--and it said "what did you import"? B-100 with RINs. What did you sell? B-100 with RINs. That's easy, because that would match up. Then what did you sell B-99 with RINs, and then B-99 RINless. And then you had another line of what's the value of separated RINs. But there wasn't a line of what's the value of the claimed tax credit, which I think is the component that may be missing.

MS. BREAUX: Okay. We can look further on that because I don't want to touch on anything that's proprietary. And so we can come around to that another time.

And so I guess, going back, so you said that particularly Indonesian biodiesel earns a rate of RINs that isn't the same as everyone else. Do you generally sell it at 1.5 RINs per gallon? Or is there some other way that you do that?

MR. CUMMINGS: We still do get the 1.5 RIN per gallon, but again it's the separate--it's a different category of RIN that has, at the moment, a very different value. I mean I think there's a D6, or a D4 RIN selling at about a dollar a RIN at the moment, and a D6 RIN selling about 50 cents, just to make the math easy. There's a 50 cents difference times one-and-a-half. So it's a 75 cent disadvantage that we have at the moment, and which is probably the primary contributor why we're not importing anything into the U.S. because it's just too big of a gap to cover.

MR. WHITNEY: This is Michael Whitney with Muscat. Just to add a touch of color there. This goes back to your favorite nesting thing. Because the D4 RIN can be used for compliance in both categories, it's always worth more than the D-6 RIN.

So we looked at our price data for the spread between the D4 and the D6 RIN during 2016, and that spread ranged anywhere from 4 cents to 30 cents. But on average it was around 10 cents, and then currently it's at a spread of 46 cents. And that means that he's got to--there's a different cash value stream to a product with a D6 RIN than to a product with a D4 RIN. And so that's all calculated in when we see whether or not we want to take it and put it into our fuel supply.

They have different cash components that we receive back from when we sell that RIN to the refiner, whether it's a D6 RIN or a D4 RIN.

MS. BREAUX: Alright, thank you very much. My last question deals with raw materials. It was mentioned that there are some biodiesel facilities that are--correct me if I'm wrong--co-located. So what do you mean by "co-located"? Are they vertically integrated? Or is there a different situation going on there?

MR. DOYLE: Sean Doyle, Louis Dreyfus. Yeah, that would be a correct description. Vertically integrated would be another way to describe it, where it's a soybean processing plant, and then on the same grounds with common ownership attached to it as a soybean biodiesel plant.

MS. BREAUX: And how often are facilities co-located in the United States? And they similarly

co-located in Argentine? Or in palm oil in Indonesia?

MR. DOYLE: To the "how often,"--oh, sorry, this is Sean Doyle with Louis Dreyfus. That's a--I would have to answer that in a later brief in terms of I don't want to give a guess number to you, but it's quite often.

And then in Argentina it's similar. My guess would be--I'd just be guessing, but 70, 80 percent, and the U.S. is probably--I don't want to give a guess because it depends on what your frame of reference is. But there are a lot in the U.S. is probably the fair thing to say.

MR. CUMMINGS: I guess I can confer. In our post-conference brief we can detail it. But I think as far as palm goes, and as far as Wilmar goes, and I think for Musim Mas as well, these are large factories that make a lot of other products. And then there's a biodiesel plant within the--we're talking like about a 1,000-acre complex that makes, you know, a hundred different products.

So that would be the Indonesian version of co-location, bring in palm fruits. The palm fruit gets crushed. And it gets decided where that palm oil goes, basically, if you can make money selling to wherever.

MR. SIM: Edmund Sim from Appleton Luff. Again, the two companies here are the only two grandfathered companies, and both are integrated to the extent that John has described.

MR. CUMMINGS: And I'd say I think that having this co-location, having this integration, is I think critical to the success of these plants. Because if you're not integrated and you're a stand-alone biodiesel plant, which is a lot of the U.S. plants are, and there are a few in Asia as well, but, you know, you're completely dependent on your biodiesel business. Whereas, if you're co-located and you have other processes, that palm oil or those soybeans can go to do other things if you can't make money selling biodiesel.

MS. BREAUX: Alright. Well my last request would be, if you have any indicators, either public or confidential, for raw material prices, whether that be soybean or palm oil or the price of RINs in the United States, that would be greatly helpful for your post-conference briefs.

Thank you.

MS. HAINES; Thank you. Our Accountant, Mr. Yost.

MR. YOST: Good afternoon. We're no longer in the morning. Charles Yost, the Office of Investigations. Let me stay on the subject of raw materials for just a moment.

Are there limitations in the United States on U.S.-origin raw materials? The comments were that certain raw materials in Indonesia and Argentina are not allowed to be used in the production of biodiesel. Is the same true in

the United States?

MR. DOYLE: Sean Doyle, Louis Dreyfus. In the case of say U.S. soybeans, they were all--this is years ago; I wouldn't know the exact date, but to use the same term--grandfathered in. That all land where you're growing soybeans in the U.S., the soybeans grown there when processed and then that oil then turned into biodiesel are eligible to create a RIN.

MR. YOST: And again is it similarly true in the United States that the EPA will go in and approve a plant to produce Biodiesel?

MR. DOYLE: I would imagine--Sean Doyle, Louis Dreyfus--I would imagine so. But frankly we built our plant back in 2007, so I'm not really up-to-date on exactly what I would need to do to build a new plant.

MR. CUMMINGS: This is John Cummings, Wilmar. It is the same process that one goes to domestically to get their plant registered as you would internationally.

MR. YOST: And that's true for the United States as it would be for any plant overseas that intends to ship biodiesel to this country?

MR. CUMMINGS: That's correct.

MR. YOST: Okay.

MR. JANZEN: And this is Bernd Janzen, Akin Gump for Wilmar, just to supplement and to repeat a point the

panel has heard repeatedly this morning, that there's no option for new Indonesian facilities to come online.

So regardless of the regulatory hoops that a new production facility anywhere would normally have to go through, that is not an option for Indonesia because of this grandfathered capacity that we've already discussed at length this morning. And, again, only two facilities are grandfathered, and that's it. And that's been true since 2011 with no indication of a possible change on the horizon.

MR. YOST: Okay.

MR. CUMMINGS: This is John Cummings with Wilmar. What Bernd is referring to, there's a recent EPA rule that they call a "REGs Rule," R-E-G-s, and in that document, which is 239 pages, they actually set a cutoff date, which was the date of publication in the Federal Register, that they say we're not accepting any more applications for grandfathering. So they've actually put an end to that program.

It's not a final rule yet, but it's going through the EPA public comment process. But, you know, essentially they're ending that of a new company applying for grandfathering status.

MR. YOST: And those are only foreign companies?

MR. CUMMINGS: No, they're domestic U.S. plants

that also qualify for grandfathering.

MR. YOST: I'm interested because one of the-- there's a comment in the EPA's final rules in both 2015 and 2016 to the effect that there's more than sufficient production capacity in this country to supply the market. Although they also indicate that they recognize the role of imports.

So I'm wondering whether you agree with this comment?

MR. WHITNEY: This is Michael Whitney, Muscat. All biodiesel plants aren't created equal. I think we've gone to great lengths to try to describe how uniquely we look at these buckets of fuel, if you were, as it were. It really depends where the facilities are located and how efficiently they drive into our supply chain.

And so all plants aren't necessarily created equal. You can put a plant in say Grays Harbor, Washington, and I can't functionally take that fuel from Grays Harbor, Washington, and take it to Houston, Texas. So everything really has to do with the proximity to the point where we distribute it to our customers. And that depends on a lot of difficult logistics and costly logistics.

So you could have a massive amount of production capacity, but if it's nowhere near where the demand is it doesn't really matter to me.

MR. YOST: The comment actually was that there's excess capacity that has not been used.

MR. McCULLOUGHl: Mr. Yost, Matt McCullough with CARBIO. Just to reiterate a point I made earlier, certainly I would be curious to know what the date of that EPA--

MR. YOST: It's from the EPA's December 16 final rule, note 140 at page 89782.

MR. McCULLOUGH: Okay, just a few points about that. Again, I think the EPA does publish data on production capacity in the U.S., as well as production. There are other sources, as well, Biodiesel Magazine has a database that publishes capacity figures. What I think is interesting, however, is when you compare those data with what you've collected from the domestic industry, I think a very different picture emerges.

One of the things I think you need to look at is, look at the data that you have collected on production from the domestic industry, and then compare it with production reported by the EPA, or the EIA, I'm sorry. And you will see that those figures align quite closely.

And that would tend to tell you that you are capturing most of the industry, the domestic industry. But then where you see a real divergence is in what the public published numbers for capacity are in these reports versus what the domestic industry is telling you.

And so in that respect, I think you are looking at a better picture of the industry in your questionnaire data than what is probably rated nameplate capacity being published in these public reports. And I think in some instances you may be looking at a lot of phantom capacity that's not really even operating. And I think there are others in the market, and maybe they can talk about that. But from what I understand, there are some facilities that have not been operating and have not been operating for some time.

MR. YOST: Okay. Thank you.

MR. SZAMOSSZEGI: Andrew Szamosszegi from Capital Trade. I think the EPA Final Rules acknowledge that there are severe logistical constraints facing the domestic industry in terms of moving its product from one place to another. And it in a way expresses skepticism in the ability of the domestic producers to run full out and go 100 percent of capacity.

And so I think that's why the EPA Final Rules also indicate that there is a place in the market for imports. They anticipate imports, and they anticipate increasing imports. And we'll provide sections of that with the post-conference brief.

MR. YOST: Okay. Thank you.

I've noticed in the questionnaire responses that

I've reviewed so far that raw material seems to be very expensive, very high proportion of net sales value. Could you comment on why that is? Or what we're seeing in the data?

MR. DOYLE: Well, I think first you have to look at to what extent the net sales value is a sales value of B-99, for example, in 2016, and are you matching the dollar a gallon that the producer would simultaneously know that they're going to receive for selling B-99?

If that were included, as it is in every time we decide to make a transaction, our margins in 2016 were quite good, if that's what you're trying to ask, i.e., the total revenue, i.e., B-99 plus the $1 a gallon you would get with that B-99, relative to the feedstock cost I paid to make the B-99. Is that your question?

MR. YOST: Yes, that helps. I'm just wondering if maybe I'm looking at producers are using waste fats and oil as opposed to soybean, or looking at totals? Just the few that I've been able to review closely, it seems to be a very high number.

And we had discussed earlier, you know, the blender's tax credit. Is it possible that people are already taking that off of the sales price?

MR. DOYLE: Absolutely they are. In 2016 when you knew it existed, it had been passed in December of 2015,

they are 100 percent taking it off. Or at least anyone I know, I mean ourselves because we know we're going to get it, and more, right? Because that dollar a gallon to someone who's a tax-paying company, is actually worth $1.35 to $1.40 a gallon, because it's a tax-free $1 a gallon.

MS. YOST: So seller will say okay, normally I would sell biodiesel at $4 a gallon, but I'll sell it to you at $3 a gallon in order to get the sale, because now it's less than fossil fuel diesel?

MR. DOYLE: Exactly. And I know I get that $1 a gallon back from the government. But even more, instead of $3, I'll sell it at $2.80 because I'm going to get $1.40 back from the government on a net basis, accounting for that tax difference of $1 a gallon.

MR. WHITNEY: This is Mike Whitney with Musket. As a large buyer of this fuel, we saw a lot of different selling patterns and behaviors from all sorts of participants in the markets. And we would see a price differential between B-100 and B-99 last year that was larger than a dollar. Because, as Sean mentioned here, people knew that that tax credit had more value to those who had income.

So we saw spreads between B-100 and B-99 that were in excess of exactly--of more than a dollar because to some companies that dollar was worth more than a dollar.

MR. YOST: Okay. Let me ask you a question about RINs. How are RINs separated?

MR. WHITNEY: Magic.

(Laughter.)

MR. YOST: Okay, I mean a seller goes to his buyer and he says I'm selling you, you know, with RINs, or I'm selling you without RINs. So how does the RIN get separated from a sale to an obligated party? Or is it the obligated party that can then resell unused RINs over and above his obligation?

MR. WHITNEY: Let me unbundle that a little bit. There are a lot of questions there.

So technically the event upon which a RIN is separated from a non-obligated blender--read Muscat, non-obligated blender--is the process of blending B-100 or B-99 with RINs below 80 percent. Which theoretically is the time in which it's going to go into an application that's going to be on road.

So it's that blending activity that technically separates the RIN from the fuel. So when we buy product with RINs we have these things called K-1 or Attached or Assigned RINs, as they're called. And then upon that blend below 80 percent, we are able to separate it from the fuel and it becomes what's called a K-2 RIN, or a Detached RIN/. And then we can sell the Detached RIN to the market. A

couple of more permutations there.

An obligated party when they buy B-100 or B-99 with RINs, they can automatically separate RINs because they're obligated. So they don't have to go through this process of blending it down to separate them because they're allowed to under the rules just to take them and use them for their compliance without having to blend down below, to be below B-80 in order to separate them.

There is also some latitude in the rules to allow producers to sell RIN-less product, but they can really only do that to the extent that they have a matching sale of up to 2.5 RINs per gallon. So you have a structural limitation on how much RIN-less product a domestic producer can sell. So some transactions, very few of them in the market, go with 2.5 RINs per gallon. But the vast majority of the transactions in the market are B-100 or B-99 with 1.5 RINs attached. And then the detaching or the separation of the RIN is happening upon the blending by the non-obligated blender, or instantly upon purchase--not purchase, but upon taking title by the obligated party.

MR. CUMMINGS: This is John Cummings with Wilmar. And just to clarify, I mean, you know, oftentimes, we'll sell a product as B-100 with RINs. And the buyer doesn't want the RINs. So -- and if the buyer is an obligated party, he can separate the RINs and sell the RINs

back to us and we sell the RINs to somebody else.

So you know, there's a number of ways to mechanically separate the RINs. In our experience, it's usually involving an obligated party of some kind, but you know, the retail guys have a different mechanism that they can -- when it's sold at the pump.

MR. YOST: Well, these are paper transactions without RINs that are no longer attached to the physical product?

MR. CUMMINGS: Yes.

MR. YOST: Is there --

MR. CUMMINGS: Yeah, there's a whole market for RINs by -- you know, the RINs are bought and sold. It's considered what they call over-the-counter market because it's not an exchange-traded market, but you know, it's a brokered market. It's done bilaterally between, you know, different counter parties. And it's a reasonably big market now.

MR. YOST: Is there anything but an administrative cost to sort of keeping the book on independent RINs?

MR. CUMMINGS: I think the --

MR. WHITNEY: Yeah, this is Michael. The risk again is --

MR. CUMMINGS: There's --

MR. WHITNEY: There's risk of price movement when we buy products, because it's just a traded commodity. So I can't -- I don't have a guaranteed kind of buyer necessarily for when I buy product with fuel and try to hedge that. Also to clarify when you said a paper market, when I think of paper, I think of an exchange-traded cleared futures market. I'm sure Sean does as well. This is a bilateral over-the counter-swap that is transacted between counterparties based upon bilateral contracts that do not typically have an -- agreement associated with them.

Now in our case, it's a little bit easier because the people that we're selling these things to are also our diesel fuel suppliers. And we always look at those counterparties, as we look in every transaction, of whether or not they're going to be able to pay us for the RINs. And they look at us as a counterparty to make sure that we have the financial capability to replace the RINs if they're found to be invalid.

MR. CUMMINGS: Okay, one thing that's important to be add to, that you kind of touched on this over-the-counter RIN market, in a lot of instances, and particularly with biodiesel, RINs, you know, you might hear a broker saying, oh, I've got, you know, a million biodiesel RINs. And what's the proper term? It's a Tier 1 -- yeah, there's like certain lists of customers that people will

accept of the producers that people will accept. And if it's not on that list, it has a different value, because it's a little more of a risky RIN. In the biodiesel industry, and mostly, you know, all domestic has have a lot of, you know, fraud problems in the last or three or four years. I think Michael touched on a few of those. So that's made everybody, I think, extremely weary of who they're doing business with, so that they don't get stuck with fraudulent RINs.

MR. WHITNEY: This is Michael Whitney again. Just to clarify, each obligated party typically will have a specific RIN ID list that will accept when you transact with them. So if I -- if Exxon calls me up and says I need X number of RINs, we have an agreed upon list of specific IDs that they will accept from me. And we agree to a price and a transfer date.

And so that is for every party that transacts in the market, they will typically insist upon an exact and specific list of acceptable IDs that they will take. Certain parties have more restrictive lists. Certain parties have wider lists. But in general, over the course of the last several years, because of all the RIN fraud actions, much more attention's been paid by the refiners as to what specific IDs they're going to take.

Now it's not just that they're just going to get

something that's not valid. The EPA can also issue them significant fines if they submit invalid RINs for their compliance every year. So they want to make sure they have two things. They want to make sure that they are submitting a valid RIN, because they don't want to get a fine. And they also want to make sure that if it is invalid for whatever reason, that they can get it replaced.

And so, if the generator of the RIN is say a small company with not a lot of assets, we've seen this happen, bankrupt or they're often Brazil or another country without extradition, they have nowhere to get the money from. And they have go back and get that RIN replaced and its monetary value from the blender.

And in the context of the amount of biodiesel that we've put in the fuel supply, we're talking tens of millions of dollars. So we invest a lot of time and energy of vetting every molecule that we touch to make sure that that RIN is valid, because we're going to be the ones having to write the check if it's not.

MR. YOST: Okay. As you know, the Commission's producer questionnaire asked for U.S. producers to report independent RINs separately in one question that was apart from the main profit and loss statement, and then to put the tax credits and local and state credits down below the operating income line.

I'd like to ask you to answer the question of how should the Commission consider the sale of independent RINs and the buyer's tax credit in its profitability analysis? And I know Dr. Szamosszegi has answered this a little bit, but I also like to hear you repeat the answer and to ask the other respondent counsel to way in?

MR. SZAMOSSZEGI: Sure. I'd be happy to. Andrew Szamosszegi from Capital Trade. Because this particular industry has the production levels that it does, because of a government program that provides the financial incentive to increase production, that financial incentive cannot be separated from the -- examining the financial health of the industry.

If you separate out that particular tax credit, then what -- you're going to have negative operating income in many cases. And the reason is because the whole reason the tax credit is there is to increase production.

So I know it is the Commission's practice to focus mostly on operating income. But in this case, if you focus on operating income without including the revenue stream that results from the tax credit and the sale of independent RINs, you're missing revenue streams that financially enrich the domestic industry and reflect the revenues of the products that they buy and sell.

So in this case, you have to look include below

the line. You have to look at net income. You have to look -- focus more on cash flow. And that has to also include the values of those RINs.

MR. DURLING: This is Jim Durling from Curtis. In the brief, we'll -- post conference brief, we'll address kind of more precisely and legally why in our view this situation is precisely the kind of scenario contemplated by some of the prior Commission decisions that have addressed this issue. The economics of this particular situation and the extent to which these incentives can be converted to cash and the evidence shows are directly are affecting the prices and the reported revenue means that you cannot understand what's really happening in this industry.

And we'll provide the legal justification in the brief. But at sort of a bigger picture level, if you look at the slide that's up on the screen, right, you see the picture of increasing operating losses, which cannot be reconciled with public statements by the industry about what a great year 2016 was and cannot be reconciled with their decisions to mergers and acquisitions, to invest in new capacity.

On the other hand, if you look at the green, if you look at the actual cumulative cash value of the economic activity they're engaged in, it makes perfect sense. It explains why they reported 2016 as a great year. It

explains why they're investing in new capacity. It explains everything.

The orange bars cannot be reconciled with the other information you have about the industry in how it views its prospects outside the context of this hearing room, where they have a different set of incentives they're reacting to.

MR. CUMMINGS: This is Jim Cummings with Wilmar. I just wanted one -- to point one thing out as well related to the tax code. You know, if you look at what happened in 2015, I think it was December 20th, when they passed the 2016 tax credit and then this is December 20th, 2015, so right before Christmas in 2015, they passed it for 2016 and then retroactive for 2015. And if you look at what happened in 2015, most people sold their product. If they didn't sell it B100 with RINs, they sold it B99 with a 50/50 split in the event that a tax credit comes.

And so, they pass this. But mechanically, they didn't come up with a procedure to apply for the tax credit for a month or two. So you weren't actually getting that tax credit till March, April. And then you would give the 50 percent to your other -- your counterparty.

So you know, in some instance, the people reflected it in 2015. In some instances, they may not have. They may have booked it as income in 2016. So I think it

really depends on how they do their accounting and if they did it properly or not, frankly, you know.

MR. WHITNEY: This is Michael Whitney again with Musket. The question was about independent RIN sales. And I would advise that you try to look at the context here and the transaction itself. Are the counterparties here, meaning the producers, there's nothing stopping them from speculating in RINs. So they could go out in the market like any other EPA registered participant and buy RINs on the market and sell RINs at a gain or a loss.

So you might want to figure out if these are RINs that are attached into a pure RINless transaction. And then you need to look at that in the context of the 2.5 RINs per gallon delimiting necessarily kind of how much RINless they can sell.

The typical way in which we put RINs back into a producer, and we don't then do a lot of it, but we'll do what's called a RIN pass back deal. So they will sell us product at a generic kind of RINless equivalent. And -- but then we will impute the market price of the RIN into that product. We'll separate the RIN, because the producer cannot separate the RIN. And then we will either give it back to him at a zero cost or we'll sell it back to them and then they will resell it.

So the important thing is to understand the

context of the deal structure and not look at it in a vacuum because it's connected to a handful of different transactions. So just in a vacuum, the RIN pass back sales don't tell you a whole lot.

MR. JANZEN: Mr. Yost, Bernd Janzen with Akin Gump. Just to circle back to your original question, I think the key points have been made by my colleagues on the panel, but I wanted to reiterate that as Mr. Cummings testified earlier today, the Indonesian industry is currently not shipping to the U.S. market. They haven't since last year and there are no sales being booked today. And that's true for both Musim Mas and Wilmar.

Why is that? For the simple reason that it is uneconomic to supply the U.S. market in an environment in which the value of the D6 RIN is where it is and also in the absence of the tax credit.

So certainly from the perspective of the Indonesian industry, it simply isn't a viable or credible proposition to try to measure industry profitability kind of absent the operation of EPA regulation and the tax credit.

MR. YOST: Thank you.

MR. DOYLE: Hi, Sean Doyle, Louis Dreyfus. I'd like to answer this wearing both my producer hat and then our import hat. First, you know, we're -- you know, we were a 99 million gallon producer. Our imports are in 2015, '16

were much smaller. I don't know the exact number, but to guess, it would be more like 5 or 10. But anyways, 99 million gallon producer, have been since 2007. Why do I give that context? Because you know, every buyer out there is different. Some buyers, as alluded to in my palm colleague, some buyers want to buy the cash by diesel with RINs. And they'll take it as B99 with RINs like Musket tends to do.

But some hate it. You know, some of have been burned by RIN fraud and there are compliance departments. They say I do not want you touching RINs. And so, we -- yeah, it's as you described. And there's probably every producer has a different way that they've found a -- to go away about it, that you, you know, you either directly with that consumer or with another consumer in the string, you find a way to be able to sell a RINless product to the guy -- to the end user that doesn't want the RINs.

And so, the point of that whole explanation, however vague that was, it's -- in that event, it's identical to me the producer as the dollar gallon tax credit. Right? Like when I'm making my decision to sell, I'm assuming, okay, now I'm selling him B99 RINless. So now I'm -- you know, I'm and I'm the getting the RIN back at a dollar a gallon. So I need to include the dollar a gallon credit and the $1.50 RIN, actually, because I'm getting 1.5

RINs per wet gallon of biodiesel.

Now domestically, it's kind of a little bit rare. I mean, just front released -- at least in the state of Indiana where we do most of our transaction or, you know, Indiana and where we sell, I -- you know off of the top of my head, I'd said we mostly find people buying that are happy to take RINs.

However, in the New York Harbor market, it's not rare at all. It's the complete opposite. New York Harbor buyers tend to want to buy product without RINs. Maybe -- so that's why I think it's quite -- when you think about like, you know, what was the real price of material transact -- imported material transacting in your car, but you need to include the RIN and you need to include the dollar a gallon to kind of create a like for like. Right, everything always needs to be like for like, so.

MR. SZAMOSSZEGI: Just I'm sorry, Andrew Szamosszegi from Capital Trade. Just to describe the independent RIN sales, the data that the Commission requested specifically indicated that they should exclude any resales of purchased RINs. So on that score, I think the Commission got the data that it needs.

MR. YOST: Yes. Yes. So to follow your example, Mr. Doyle, so you would sell into the New York market if I understand you correctly, you would sell

biodiesel without RINs. So that would decrease the price to compensate for the RINless sale. And you'd also give them a rebate on the tax credit?

MR. DOYLE: Yeah, well, the all in price would be really very low, right? It would end up being like at their door, you know, probably 30 to 40 cents below heating oil, right? It would be B99 RINless, deliver to your door, you know, probably -- you know, just based on where transactions have tended to occur over the last year or so, you know, 20, 30, 40 cents below heating oil.

Because it just makes it so simple for this guy. You know, for the, you know, the -- you know, a lot of these players aren't the Muskets of the world. You know, they're small heating oil company in the Northeast. They don't have a RIN department. You know, they just want to make 30 cents a gallon on 10 percent of the barge they're loading with heating oil in New York Harbor. That's all they want. They don't want any other hassle. And so, I handle the hassle for them. But my real revenue is, of course, the dollar a gallon plus the RIN.

MR. YOST: Okay. All right, thank you very much. That concludes my questions.

MS. HAINES: Thank you, our industry analyst, Mr. Allen?

MR. ALLEN: Yes, ma'am, I'd also like to say

thank you to the company officials who came to talk to us today. We always learn a lot when the companies come before us.

My first comment I'd like to follow up on information request that Ms. Breaux made about publicly available information on the prices of the inputs. We have identified possible indexes out there that companies do use in terms of pricing information. If that is the information that you'll be giving us in any post conference submission, I'd appreciate it if you could indicate if there are multiple indexes that different companies or producers might use either regionally or nationally, or if certain indexes have strengths versus other ones, especially regarding any publicly available pressing information on RINs.

I know that publicly available might be a sort of a loose definition. And there might be actually subscription services out there that calculate -- gather information on this for a very specific audience. If you have any information on that, we'd appreciate that any post conference.

The first question I had was regarding our form producer questionnaires that we sent out. We asked -- because internationally, biodiesel trade is measured in by weight in kilograms. We asked for a conversion factor

because most of the records that we're getting from U.S. producers are in gallons.

And I was wondering if there is a specific internationally accepted conversion factor that actually transcends borders that everyone could agree on for converting one to the other?

MR. CUMMINGS: I don't know if there's an internationally accepted one. It actually has -- if you really want to get technical about it, it actually has to do with the density of the actual biodiesel and that can vary. You know, we as a rule -- as Wilmar use 302 gallons per metric ton. That's our metric. The actual can -- might be, you know, 301, or you know, it really depends on the density of the product. And it gets into the -- you know, a calculation. But I don't think there's a -- I think a lot of people just to make the math easy might use 300. You know, but we use 302.

MR. ALLEN: And the density of the product is related to the input?

MR. CUMMINGS: Yes. And even it can vary with the same input somewhat depending on different factors, yeah. Not much, but it -- enough to make it one or two gallons of metric ton difference.

MR. ALLEN: Okay.

MR. WHITNEY: This is Michael Whitney at Musket

again. It really depends on the feed stock and the density of the feed stock and the efficiency of the plant. So we always convert everything into dollars per gallon. So as John mentioned, we pay for a certain amount in metric tons. And that may or may not convert exactly to 302, which is the one they use.

Out of Argentina, we typically look at 298.5 gallons per metric ton. And then in the U.S., it really depends on the producer. They have different conversion values and they're pounds per gallon. A good rule of thumb is anywhere between 7.3 and 7.4 for soybean oil pounds per gallon. Now I wouldn't say that they're generally agreed upon, but it's plant by plant. Some plants are 7.373 some are 7.4, but it's just a rough guide.

MR. ALLEN: No problem. Thank you very much. My next question goes back to Mr. McCullough's opening statement. I think you had mentioned something about renewable diesel using nonsoy food stocks. I was wondering if that is a requirement or is it just a primary result of other market forces?

MR. MC CULLOUGH: Matt McCullough with CARBIO. I think there are better witnesses to testify to that.

MR. ALLEN: Yes.

MR. MC CULLOUGH: But I believe the answer is it's a feed stock related issue. It's limited to particular

kinds of feed stock, but Michael or Sean I'm sure can answer that question.

MR. WHITNEY: Yeah, this is Michael Whitney with Musket again. We purchase a significant amount of product from that plant for movement into California. And the low carbon fuel standard assigns carbon intensity scores for various feed stocks, depending on their overall lifecycle greenhouse gas emission impacts.

And to harvest better values, you need to use less greenhouse gas intensive feed stocks from wells to wheels kind of analysis. And so, waste oils and greases get much lower carbon scores. And that carbon score translates actually into a certain number of credits, which have a market value that we transact, sort of like RINs, except a little bit more opaque and a little bit more magical.

And so, if we have a very low carbon intensity score for -- and Diamond Green has different carbon intensity scores, depending on which sort of feed stocks slate they're running, and they balance that between the costs of that feed stock and the carbon intensity score, they get to California less the transportation.

So as the low carbon fuel standard was upheld in the 9th Circuit, and then the market started to move and there were values for those credits that were cash values, we started to see all of this renewable diesel go to

California and use a more advantageous feed stock slate to get a better value going into California with the low carbon intensity score. So you wouldn't see them take a soybean product because the carbon score is not as good as that for a waste oil.

MR. ALLEN: Perfect. Thank you very much. Now on -- my next question is -- might be too information intensive to explore comprehensively here. It deals with renewable diesel production throughout the United States and federal -- excuse me, state tax credits or programs for that. I was wondering if the same state tax credits and programs for biodiesel also applied equally or partially to production of renewable diesel. And then hopefully in a post conference submission, we could get a list and possibly a breakout of any programs that affect production of each the same or differently. Like I said, I believe this information request is a little bit too expansive to explore completely here, but --

MR. MC CULLOUGH: Matt McCullough with Curtis Mosle for CARBIO. There will -- I think we'll have to address that in post conference, but you know, we will also provide a fair amount of information. We've talked a lot about the federal programs here, but I don't think we should discount the significance of all the state level incentives that go on. And there are some databases, and I will share

them with you, where you can drill down in each state and look at the various programs, but we'll do what we can in post conference for that.

MR. ALLEN: Okay, thank you very much. I have nothing else.

MS. HAINES: Mr. Duncan?

MR. DUNCAN: Good afternoon. I wanted to follow up quickly on a couple of threads of conversation that some of my colleagues have already touched on -- upon earlier, but I wanted to drill down a little bit more. The issue of the pricing products that the Commission gathered data on at the preliminary phase of these proceedings, we have the B100 series. Now that should include the value of the tax credit no matter what period. Is that correct?

MR. WHITNEY: This is Michael Whitney with Musket. I would say that that's not entirely accurate. It depends on which time frame and what you're looking at the data.

So in a year like 2016, where the tax credit was known and existed throughout the whole year, the answer to your question would be yes. In 2015, however, where we had a retroactive credit, and there was a veritable market in the probability on the splits of 50/50 or full view 100 or no credit, no split, that would permutate your data there particularly in 2015.

But in 2016, B100 should be B100. But as mentioned by some of the other witnesses here, the threat of a domestic only producer credit changed the market's perception of the value of the B100 from a foreign producer versus the value of a B100 from a domestic producer. And there was a probability matrix that was sort of driven by various parties bilaterally as to how much they're willing to pay for a split or no split throughout the course of 2015.

MR. CUMMINGS: I think that's a good point that Michael raised. And I know it's out of the POI, but it gives you a little bit of perspective that 2017 right now, I think a B-100 may have a 5 or 10 cent premium over a B-99 with a 50/50 split. So I mean, that -- because and the reason because is the probability of us getting a blender's tax credit or producer tax credit is perceived in the buyer community as very low. So it's whether it's B-99 or B-100, it doesn't matter if you don't get a tax credit. And it doesn't have, you know, but there is a small chance, you know.

MR. WHITNEY: Just to add one piece like that, because there was a threat, you weren't going to get a dollar a gallon credit on the Argentine product or the Indonesian product in 2015. We would have necessarily valued it at less than the B100 from the similarly situated

domestic producer, because there was that mark in the Senate Finance markup of the producer credit. So we just looked at the products fundamentally differently, because we assessed a different value to the probability of the dollar from one versus the other.

MR. DOYLE: Yeah, Sean Doyle, Louis Dreyfus. And I would be careful with B100 domestic data, because I mean, just putting back my 99 million gallon producer hat on, I mean, I didn't want to transact as B100. You know, I mean, because, you know, I, you know, why -- I mean, I want to gather that $1.40 credit, right, should it come, right? So like it's a funny thing, right? I'd have to look exactly at my volumes. I don't have it in front of me, but you know, it's -- and then also, your desire to transact would change throughout the year, depending on, yeah, the -- what you heard out of Congress, you know, the whisper of whether the credit was coming back or not.

And then finally, your desire to transact as B100 or B99, it also like it depends on your stomach at the time. Like if all of a sudden, you know, the Muskets of the world, they really think it's coming back, and they're going to like -- to get the B-99 to get that 50/50, I need to discount like just to say, for example, like the full 50 cents, right, because he's valuing it as a 100 percent certain that the dollar gallon's coming back. So he wants

to bid me off.

Look, I might have already, you know, traded 50 million gallons with the option and paid 15 cents for the option, if you will, by discounting my price. And maybe I don't want to sell -- I don't want to, you know, I have already, you know, $8 million of option cost that I've spent. And maybe my view isn't 100 percent like Michael's is. Maybe it's 25 percent, because my guy has a different guy he's whispering to in Washington.

It's just -- it's a weird game of, you know, poker, I guess is the way to describe it, so.

MR. WHITNEY: Just to add one other piece of color on -- this tax credit just doesn't magically show up by courier and a check from the U.S. Treasury. It requires significant legal and taxing compliance work in order to collect the credits, to make sure your submissions are accurate, and then during the year when the tax credit is on, we would do these submissions quarterly.

A company like ours has resources to do that and we did that, but not everybody is necessarily in a position with their tax counsel resources to be able to do that, so some companies, I suspect, would have preferred just to buy B100 and try to take as much value as they could for it, whereas other companies were situated differently from a resource perspective to be able to submit those credits to

the government.

Also consider the fact that this is a working capital play as well. But when we buy B-100, we paid effectively $1.00 more a gallon for the products, so that cash is gone out the door. I have to go collect all these certificates and then I have to go collect them and submit to the government and the government doesn't pay you back exactly tomorrow. So it takes about a quarter, so you have to finance the working capital of that additional $1.00 per gallon cost before you get your money back from the government.

Now, in the course of '15, you end up having to carry that working capital risk if you paid additional values for B100 through the course of the whole year. So it's not a cost-free transaction in terms of both compliance and personnel, as well as working capital costs.

MR. DUNCAN: As a lot of you know, we gathered extensive data in the Commission's preliminary phase of questionnaires, breaking out commercial sales by the different categories that we've been discussing today. It would be helpful in any post-conference submissions to go through and sort of try and tie these market events to changes in prices over time, both in terms of the trade and financial data, as well as the pricing data.

The discussion about counterparty risks, is that

primarily concentrated in the satellite independent RIN sales market? Or does it also enter into the bread-and-butter of the actual biodiesel market?

MR. WHITNEY: It's both. I mean they're really two sides of the same coin. So the RIN has an ID and a value to it, depending on who's the generator of it, and then if that generator -- so if I separate the RIN and sell it to a refiner and it's invalid, he comes back to me, I pay the refiner, then it's a daisy chain and I go back to the producer and say, you know, if I can reach him, and I say, hey, you owe me $7 million, whatever was on the RINs, so the counterparty piece permeates throughout the value chain.

However, typically the weakest link in this from a financial viability standpoint is really the domestic U.S. producer. The buyers and the obligated parties under the RFS are big refiners who have cash to pay for and to house working capital to hold RINs in inventory to meet their mandates when they need to meet their mandates.

MR. CUMMINGS: I believe you could personally register to buy and sell RINs too.

MR. DUNCAN: So if this counterparty risk is a major consideration in the biodiesel market, is it concentrated under any particular source of supply where there's a greater counterparty risk perceived by market participants in U.S., Indonesian or Argentinian players?

MR. WHITNEY: The participants in Indonesia and Argentina are big multinational companies with big balance sheets that we have a greater comfort of fluency of dealing with, that we know can back transactions and will perform, and then we have remedies with them because of their commercial viability in the case of default.

We can't say the same about the smaller domestic U.S. producers. Many of the larger domestic U.S. producers are just fine, no issues there, but there is certain concerns, just from balance sheet and cash availability of smaller domestic U.S. producers from a counterparty perspective.

MR. DUNCAN: Other markets in this panel agree with that?

MR. CUMMINGS: I agree with that, and another thing I wanted to add that I think that all Argentinian and all Indonesian product is, in some way, audited by this QAP process. I want to qualify that a little bit. There is one Argentina producer that does it slightly differently, but it's a similar program that they have with an oil company called Shell.

But all of these RINs are QAP'ed, which is an extensive audit process, and then in a lot of cases, too, we contractually have a provision in the contract that says if something goes wrong with this RIN, because it is very

tricky to manage these, but if they ever audited us and they found that a particular RIN that we generated was invalid, then we back that up and we replace the RIN. Not a lot of companies will do that, but I think you'll find that more with the importers.

MR. DOYLE: I would agree with the prior comments and add, you know, the case of the map-and-track system in Argentina, that each individual company has developed to create RINs, it's not an inconsequential cost. It's a significant cost and it's something that took us time to develop and it requires a lot of audits, a lot of paperwork on each and every individual truck.

And these are places where we're dumping a thousand trucks a day in these ports, if you've ever been there. They line 'em up. There's, like, five truck dumps and they lift 'em up. And every truck needs to have the right paperwork. And so those soybeans are not the same as a generic Argentine soybean. That soybean is worth more and people pay more for it. Whereas, the U.S. producers get the benefit of that all, just blanket being approved.

All the soybeans that arrive at our Claypool, Indiana plant are able to generate RINs. I don't need a map-and-track. I don't need to spend the costs on the extra paperwork, the extra origination, the extra segregation, which is not inconsequential to segregate those soybeans,

and segregate that soybean oil.

MR. WHITNEY: This is Michael Whitney with Musket again. Just to add a little color on the QAP. Domestic producers, particularly the smaller ones, also use this QAP process; however, the QAP protocols only indemnify the user of the RIN for compliance for fines. It does not guarantee replacement.

So if you use a QAP RIN that's found to be invalid, the EPA can't fine you, but you still have to replace it and submit another valid RIN for compliance. So we're back at that counterparty issue again where someone's gonna have to replace it. They look to me first, usually, and then I will go look upstream to the producer to see if they have the money to replace the RIN or pay cash equivalent value.

MR. DUNCAN: Thank you. One other question in relation to a conversation Mr. Yost began with. Obviously you guys in this panel have opposition on the inclusion of the independent RIN sales and the BTC. But per his questioning about the ratio of raw materials to net sales values, is it also your position that you would analyze for a common size purpose and a unit analysis purpose, the net sales value inclusive at the top line? Those two line items? So that you don't have to go to the bottom of the income statement to see the economic effect on a per unit in

common size bases?

MR. CUMMINGS: I would concur with that, because it's revenue. You get revenue from the RINless B-99, you get revenue from the RIN, you get revenue from the tax credit. That all goes to your revenue to report.

MR. DOYLE: I agree with that. It's all revenue.

MR. CUMMINGS: But also keep in mind, this is John Cummings with Wilmar, that dollar is not taxable, so that's important, too. Because that's additional. Like, they're not paying a tax on that $1.00.

MR. SZAMOSSZEGI: Andrew Szamosszegi from Capital Trade. I think that's one way to do it, and that's a valid way to do it. The Commission never looks at other tax events but this credit is such an important part of the regulations and it's part of the revenue springing from the product that I think including it as revenue in net sales is appropriate.

MR. ROGERS: This is Tom Rogers with Capital Trade. I think if you don't do that, because of the fluctuations in the legislation and the credits, then you'll see swings in raw material expense ratios that you might not see otherwise, just distorted because of the change in the legislation.

MR. DUNCAN: I have no further questions.

MS. HAINES: Mr. Comly?

MR. COMLY: I fortunately have only a couple of questions, and hopefully they'll be short answers. How does a RIN become invalid?

MR. WHITNEY: It's a really interesting process, and it's not magic this time. It's really just hard work by investigators over at EPA. Based upon market information and audits that they do on the plants periodically, they look at the data and the information that's supplied to them by the various plants and whether or not the pathway and the feedstocks that they use match the pathway that they've applied for, and so after a long, either civil or criminal investigation, the EPA issues a notice of violation stating that certain RINs that were submitted for compliance are invalid.

MR. CUMMINGS: So most of the invalid RINs, I think probably, largely have been related to these fraud cases.

MR. WHITNEY: Right. In some cases, it depends on -- they weren't using the proper feedstock, they weren't using or the following the pathway that they got their EPA ID under. There's any number of reasons and you can read through the cases. A lot of times, the invalidation comes to how the RIN was used.

So there's a long list of cases there. In one

case, one guy was just making up the numbers in his garage, and so there's a lot of different ways in which these RINs can be invalidated, and they're rather fascinating, interesting set that you'll probably see on American Greed. Actually, there was an interesting bid on this NBC show, American Greed, about one of the RIN frauds.

MR. COMLY: I would assume that would normally happen with the smaller producers. It doesn't happen with the larger producers. Is that correct?

MR. WHITNEY: It hasn't typically happened that way. The larger producers tend to have rather significant operations and cash flow and reputational risks associated with it, so the risks to them to not follow the rules just to make a quick buck is relatively catastrophic in their structures relative to, say, a smaller producer that might engage in that behavior.

MR. COMLY: Thank you. And then my last question has to deal with the Argentinian and the EPA compliant soybean. And you said there was a limit to that? Can you explain how that's limited? How the amount of soybeans is limited? And I think you said it's almost reached now? And is there a public source for that type of data?

MR. DOYLE: I'll do my best. I mean really it's a view on qualifying acreage. And then acreage -- I don't

know if the level of detail that the palm oil industry can quote the regulation? But it's acreage that was in production.

It's such that you're verifying that the acreage was not put into production as a result of what happened, the passage of the RFS, the increase of renewable fuel standards. You're not tearing down the forest to grow soybeans for renewable fuels here. So as one would expect, there really--if you think about it from a broad economic standpoint--the intention is to make sure that that soybean is similar to an Indiana soybean, that you didn't go tear down the rain forests in Indiana when you announced the RFS.

They want to make sure that the soybean in Argentina meets that same threshold. And so, as you would expect, Indiana has a finite amount of land that meets that, and so does Argentina. Also, I would say there's a finite number of farmers that wanna be bothered with all the paperwork.

I mean, again, it's not an insignificant amount of work that needs to be done to certify all of the ownership records of the farm to show that this has been in continuous production.

MR. CUMMINGS: I just wanted to touch on that. I think it's a good question. It's an important one. In the RFS final rule, there's extremely specific requirements

that the auditors have to match with the supplier of the stuff.

And these are things like, you know, they need to have a receipt of seedlings. They need to have a receipt of fertilizer dating December 19th, 2007. They need to have a receipt of land preparation. And EPA's been extremely rigid on this.

And just to give you an example, around our plant in Sumatra, something like 40% of the supply of palm fruits come from what they call smallholders, which are small companies that may have 5 to 50 acres maybe, and they've got a bunch of palm trees. Now they can't qualify for the program because they don't exactly have an office building and a filing cabinet with their receipts from 2007, so it's an extremely complex program to get qualifying feedstock to meet the program.

And there is a practical limitation of what you can get. And I do concur that there might be a qualifying feedstock, but they just don't want to go through the paperwork, or may not have the records to back up the -- they may well have been in operation on December 19th, 2007, but they just don't have the documentation to prove it, to EPA's rigid requirements.

MR. WHITNEY: Just to add one other point to that. It's not just the EPA's requirements. It's also the

purchaser's requirements. Because ultimately we're the ones that are gonna have to pay for the RIN in the first instance, so they need to meet our requirements and so what we've done is, we've made sure that all of our imports from Argentina and Indonesia meet the rigorous QAP standards, which as both Sean and John have said, require rather significant documentation and collection of data in countries that don't necessarily have very good record collection.

MR. COMLY: Thank you. And thank you again for coming. That's all the questions I have.

MS. HAINES: Any other questions?

MR. CHANG: I just had one quick housekeeping question. So in terms of analyzing the import data, we've been using official statistics. Do any of you have issues with us taking that approach?

MR. CUMMINGS: U.S. officials' statistics?

MR. CHANG: Yeah, U.S. officials' statistics.

MR. WHITNEY: I think we'd have to see what those statistics say and we have to make certain assumptions about whether or not people used the right harmonized tariff code schedules for that, so we -- it's something we can address in our post conference submission.

MS. HAINES: Thank you very much. This is extremely informative and helpful. I think we will take a

30-minute break before the next panel.

(Whereupon a brief recess was taken to reconvene at 1:40 p.m.)

A F T E R N O O N S E S S I O N

MR. BISHOP: Would the room please come to order?

MS. HAINES: Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Madam Chairman, I would note that the panel in support of the imposition of anti-dumping and countervailing duty orders have been seated. I would remind all witnesses to please state your name when you speak. The court reporter can't see the name signs. Thank you. You may begin when you're ready.

STATEMENT OF JACK LEVY

MR. LEVY: Thank you and good afternoon. For the record, this is Jack Levy from Cassidy Levy Kent, counsel for Petitioner. It's been a long day thus far. We're still adapting to the new format, but hopefully everyone is refreshed after a wonderful lunch break.

In a moment, you're going to hear from U.S. industry witnesses. You're going to hear first from Anne Steckel, Vice President of Federal Affairs for the National Biodiesel Board. She's also accompanied by Sandra Franco, Director of Regulatory Affairs and General Counsel for NBB. She'll be available as a resource for Q and A.

We have here Mr. Chad Stone, CFO of Renewable Energy Group, the largest U.S. producer of biodiesel, also

one of the U.S. producers of renewable diesel, and a resource on those issues for sure. We have Dr. Robert Morton, chairman of Newport Biodiesel, a smaller producer among those that apparently have been maligned this morning, and we have Mr. Paul Soanes, president and CEO of RBF.

So what you have on this panel is you have experts with a bird's eye view of the industry, experts in government regulation. You have small producers, you have larger producers, you have producers with operations on the Gulf Coast, in the Northeast, in the Midwest.

In short, what we've prepared for you is a panel of experts that can speak to your concerns, and we certainly hope that many of the questions addressed to Respondent witnesses this morning will similarly be addressed to those in support of the petition this afternoon. I don't want to take up much of our panel's time by way of introduction, but I would just respond to a few of the points that we heard this morning. I guess by way of introduction, let me say that I think there is unqualified agreement between Respondents and Petitioner on in total one issue, the issue of the domestic like product.

We all seem to agree it's coterminous with the scope, that there's a single domestic like product. So I think through this format, we could clear the underbrush and take that issue off the table. But on almost every other

issue of importance, we respectfully disagree and we hope to help you understand that better throughout the course of the afternoon.

We disagree strongly with the assertion that the domestic industry is not injured. This is an industry that has a negative, an increasingly negative gross margin. The cost-price squeeze that this industry is suffering is palpable, and this is an industry, as you'll hear from witness testimony, that is unable to justify reinvestment despite surging U.S. demand.

We respectfully disagree with the proposition that there are no injurious volume effects. Subject imports increased by more than 460 percent over the POI. They took more than 18 percentage points directly at the expense of U.S. producers. We disagree with the assertion that the U.S. industry is unable or unwilling to supply.

The record for this preliminary phase is incomplete in terms of the coverage of the domestic industry, but the EIA has reported, as recently as last year, that the unused capacity in the United States exceeds the entirety of domestic imports. The U.S. industry is ready, willing and able to supply and they are also ready, willing and able to compete with Argentina and Indonesia, provided it's at a fair price.

We also disagree strongly with the assertion

that the pricing data are somehow defective or unusable. There is a preponderance of underselling on this record, despite the fact that it's a commodity product. Those data are highly probative and it frankly is a stunning indictment or an impeachment of the assertion that somehow subject imports are better or preferable. If their stuff is so much better, why are they underselling more often than not?

We disagree that there are powerful non-price factors that explain what's happening in the market. Location issues, issues of logistics are cost questions that ultimately are questions of price. If subject imports are taking share at the expense of domestic producers, is it at the end of the day that the total value equation, for the likes of Mr. Whitney, is more attractive?

And that is exactly what is going on in this market. Cut rate prices from subject imports that is driving share gains at the expense of domestic producers. And finally we disagree with the assertion that there's been no adverse impact. Again, the injury on this record, as you'll hear from the testimony today is palpable, and while this is to be sure a complex regulatory environment, the environment could not be simpler in 2016.

In 2016, everyone knew what regulations were in effect throughout its entirety. In 2016, demand was at its apex. Subject imports, U.S. producers alike could

benefit from RFS program. They benefitted from blender tax credits. Everyone was on a level playing field in terms of the regulatory environment. In an environment where demand was at its apex, and in an environment where feedstock prices were declining, what was happening to U.S. producers? A cost-price squeeze and a negative gross margin that was unprecedented in the history of the industry; palpable share loss; and an inability to justify new investments, an inability to expand capacity.

Injured companies are those that cannot justify reinvestment. If the U.S. industry were hitting it out of the park, as Respondents seemed to suggest this morning, you would not see that behavior. You would see reinvestment. But what is happening at the end of the day is that subject imports have displaced, in a dramatic way, the position of U.S. producers and at bottom, despite the regulatory complexity in this industry, the reason is price.

So with that introduction, let me turn it over to our industry experts, and I hope this will be an informative afternoon. Thank you.

STATEMENT OF ANNE STECKEL

MS. STECKEL: Thank you, Jack. Well good afternoon everyone. Hi. I'm Anne Steckel. I'm Vice President of Federal Affairs for the National Biodiesel Board. I am also here on behalf of the National Biodiesel

Board Fair Trade Coalition, the Petitioner in this case. The National Biodiesel Board or NBB is the national trade association representing the biodiesel industry, which is America's first advanced biofuel.

The group supports sustainable biodiesel industry growth through education, communication, government affairs, technical and quality assurance programs. The NBB is comprised of approximately 75 biodiesel producers, as well as state and national feedstock organizations. We are here today because of the significant damage our industry has suffered on account of unfairly traded biodiesel imports from Argentina and Indonesia.

These imports have surged into the market and taken away hundreds of millions of gallons of production and sales away from U.S. biodiesel producers. The low prices at which these imports enter the United States have hit our industry hard, leaving domestic producers to incur losses on their substantial investments, and preventing them from making further investments that are necessary for a fledgling industry to grow and succeed in the future.

Let me begin with a brief description of the product covered by your investigation. Biodiesel is a clean renewable alternative to petroleum diesel, made from a wide variety of animal and vegetable oils, including used cooking oil, soybean oil, canola oil and tallow.

Biodiesel is primarily used in blends with petroleum diesel as a transportation fuel and heating oil. According to the Environmental Protection Agency, biodiesel reduces greenhouse gas emissions by at least 57 percent and up to 86 percent, as compared to petroleum diesel. Another way to look at it is that for each 100 gallons of biodiesel that is substituted for an equivalent amount of petroleum diesel, net CO2 emissions are reduced by one metric ton.

Greenhouse gas emission reductions, however, are just one of biodiesel's many environmental benefits. Biodiesel also reduces waste in landfills, keeps oil and sludge out of the sewer and infrastructure and waterways, maximizes the efficient use of agricultural byproducts, and significantly cuts emissions of other air pollutants, particularly air toxics.

In the last 10 to 15 years, biodiesel has grown from a niche fuel to a commercial scale industry, with a U.S. market of over 2.6 billion gallons in 2016, all made from an increasingly diverse mix of feedstocks. Building a new energy industry is no small endeavor, and cultivating America's biodiesel industry is something we should all take great pride in.

U.S. biodiesel producers have made tremendous investments, diversifying their feedstocks and increasing their efficiency. In doing so, they have built biodiesel

plants that are helping to meet our country's goals of energy independence through an increased mix of sustainable, renewable fuels. Today, our industry has plants in nearly every state in the country, in big cities and rural communities, along the east and west coast and throughout the heartland.

These plants and the businesses they support provide good, well-paying jobs. Every 100 million gallons of biodiesel production supports an estimated 3,200 American jobs. I'd like to spend a few minutes providing a high level overview of the regulatory environment in which domestic biodiesel and imported biodiesel is sold in this country.

To the extent you would like greater detail on any of these aspects of government measures, we would be happy to answer any questions. I am joined today by NBB's general counsel, Sandra Franco, and we can both serve as a resource to you during the Q and A session.

Let me begin by describing the renewable fuel standard or RFS, because it has been an important factor in developing our industry. The legislation creating the RFS was enacted in 2005, and expanded in 2007, with overwhelming bipartisan support in the Congress and signed by President Bush.

The most important element of the RFS is that

it mandated that transportation fuel in the U.S. include a minimum amount of biofuel. The RFS was intended to substantially increase domestic renewable fuel production, which will reduce our dependence on petroleum, create jobs and economic activity and a new American energy industry and reduce harmful emissions.

As part of the legislation, Congress established several categories of renewable fuels including advanced biofuel. The predominant advanced biofuel is biomass-based diesel. Since 2013, EPA has established a mandated minimum volume for biomass-based diesel, and those volumes have grown each year since 2014.

For a biofuel to qualify towards the RFS-mandated volume, it must be made from renewable biomass, and it must also achieve a significant reduction in life cycle greenhouse gas emissions. An exemption exists for feedstocks that EPA has not approved, including palm oil if the biofuel comes from a grandfathered facility. Such grandfathered facilities include those in Indonesia, which produce palm-based biodiesel.

Biodiesel from those plants is also used to satisfy RFS-mandated volumes, though for a different renewable fuel category than biodiesel. Let me also mention the role of the renewable identification number or RINs. As I discussed, the RFS establishes a mandatory volume of

renewable fuel consumption. The RFS regime assigns responsibility for achieving the mandatory volumes to obligated parties. Obligated parties are refiners or importers of gasoline or petroleum diesel.

Each obligated party achieves compliance by obtaining credits called RINs. RINs are generated through the production and importation of biodiesel. Under the RFS program, each gallon of biodiesel produced domestically or imported into the U.S. generates 1.5 RINs, reflecting the greater energy content associated with biodiesel as compared to ethanol.

Even grandfathered palm-based biodiesel generates 1.5 RINs per gallon. Obligated parties can buy biodiesel with RINs attached or acquire RINs detached from biodiesel. RINs become detached or separated once an obligated party takes ownership of the biodiesel or a non-obligated party blends the biodiesel with at least 20 percent petroleum diesel.

Once separated, the RINs can be freely traded. This RIN-based system of compliance creates market value for separated RINs. It's important to keep in mind that while the RFS and the volumes mandates are an important factor in the biodiesel market, a significant volume of biodiesel is sold to non-obligated parties. The most predominant of these non-obligated parties are national travel centers or

truck stops such as Pilot, Love's and Travel America.

Non-obligated parties are discretionary blenders, and also include smaller regional distributors. These parties purchase biodiesel because the relative pricing between biodiesel and petroleum diesel makes it economically attractive to blend biodiesel. Another factor in the U.S. biodiesel market is the federal blender's tax credit, which allows blenders of biodiesel to claim a credit of a dollar per gallon against their U.S. federal tax liability.

When first enacted in 2005, the biodiesel tax credit was intended to help make biodiesel prices competitive with petroleum diesel fuel. Traditionally, obligated parties and discretionary blenders claimed the blender's tax credit, but because the credit is available for blends containing as little as 0.1 percent biodiesel, many obligated parties and discretionary blenders have shifted responsibility for claiming the credit to biodiesel producers, who then share the value of the credit with their customers through a lower price.

The status of the biodiesel tax credit has always been uncertain. The credit has been extended, expired or renewed on multiple occasions. Often, the biodiesel tax credit has lapsed at the end of the year, only to be renewed retroactively at the end of the following

year. Most recently, the tax credit lapsed at the end of 2016, such that it is not currently in effect and there is little indication of whether it will be reinstated any time soon.

I've spent a fair amount of my time this morning, or I guess this afternoon now, describing the regulatory environment that influences the petroleum and sale of biodiesel in the United States. These regulations are somewhat complicated, particularly for those that are new to the industry. For your purposes, perhaps the most important takeaway from this discussion is that U.S.-produced biodiesel and imported biodiesel from Argentina and Indonesia, are treated essentially the same way.

That is, biodiesel volumes from Argentina and Indonesia are used to satisfy the RFS-mandated volumes. They generate the same number of RINs as domestically produced biodiesel, and the blending of imported biodiesel qualifies for the federal blenders tax credit, just the same as the blending of domestic biodiesel.

In short, to the extent these measures influence demand and prices, they've had the same effect on both domestically produced and imported biodiesel. Unfortunately, while U.S. energy policy created a level playing field for domestic and imported biodiesel, foreign

government subsidies and dumped prices from foreign suppliers have undermined U.S. producers' ability to compete.

With the EU imposing trade remedies on imported biodiesel from Argentina and Indonesia in 2013, and Peru doing the same in 2016 on Argentine biodiesel, the U.S. is by far and away the most attractive biodiesel market in the world for these producers. As a result, exporters in Argentina and Indonesia have focused their attention on the United States, with imports surging into the United States since 2014.

These dumped and subsidized imports have had a devastating effect on the industry as a whole. Make no mistake: the past year should have been a time when the U.S. biodiesel producers knocked it out of the park. Demand continued to grow, feedstock prices were lower and there was greater certainty in the regulatory environment than in years past.

U.S. biodiesel producers should have been realizing higher profits and reinvesting those profits in their businesses. But unfortunately, this did not happen. Instead, dumped and subsidized biodiesel from Argentina and Indonesia entered the United States in record volumes, capturing greater market share at the expense of our producers.

The loss of market share has left the domestic industry with substantial unused capacity. The low prices of which these imports are sold mean that our producers cannot get a fair return on these substantial investments that they have already made in the development of our industry. Remember, this is still a young industry that should be growing with the market, building out capacity, and undertaking other projects to secure its future.

The inability to reinvest is devastating to the growth and development of our industry. In just a moment, you'll hear from representatives from across the domestic industry, including two of our largest producers, REG and RBF, as well as from Newport Biodiesel, a small producer in the Northeast.

Please keep in mind that there are dozens of small biodiesel producers across the country that simply cannot afford to produce and sell at the prices set by the imported product. These companies have idled production with some shutting down their plants completely in the face of these market conditions. Thank you for your time and consideration of this case.

STATEMENT OF CHAD STONE

MR. STONE: Good afternoon. As Jack mentioned, my name is Chad Stone. I'm the Chief Financial Officer at Renewable Energy Group, also known as REG. I've

been with REG for almost eight years now as the chief financial officer, and during that time I've also served as the chairman of the Iowa Biodiesel Board and I'm currently on the executive committee of the National Biodiesel Board.

REG supports the imposition of anti-dumping and countervailing duties on biodiesel imports from Argentina and Indonesia. These subsidized and dumped imports have taken market share from REG and other producers. By selling in the United States at discounted prices, the imports have sliced REG's margins, undermined the economics of prior investments, and preventing us from making further investments that would allow us to meet the future needs of our customers.

Let me start by describing Renewable Energy Group. REG is the largest producer of biodiesel in the U.S. We got our start 21 years ago with a single plant in Ralston, Iowa, under the umbrella of West Central Cooperative. That plant started with a capacity of one million gallons per year, and our founding preceded the current regulatory framework that supports biodiesel.

West Central launched Renewable Energy Group as a part of a partnership, followed by our incorporation in 2006. By that time, the Ralston plant had been expanded to 12 million gallons. At that time, our business model was to go into different communities to build biodiesel plants. We

would work with those communities to raise funds and construct new plants for them.

We essentially provided a turnkey solution where we would hire the plant manager, the employees. We would run the plant and provide a wide range of support services under a fee for service arrangement. Unfortunately, much of this new capacity came online just as the financial crisis, and many plants around the country were unable to finance operations. REG wound up acquiring a number of these plants.

Since then, REG has continued to add assets. We now have 11 biodiesel plants across the United States. Each location is strategically located based on the location of feedstock supplies and distribution channel for fuel consumption. REG's biodiesel plants use a variety of feedstocks. While REG still uses soybean oil and vegetable oils as a feedstock, about 80 percent of our feedstock comes from wastes, fats and oils, including things like used cooking oil and animal fats.

In our pretreating facilities that refine feedstocks, our network of bio-refineries can use a wide range of feedstock to produce biodiesel. Anne spent a few minutes describing biodiesel and its many environmental benefits, and a fair amount of technical information has been provided in the petition, and information about the

product.

But there are a couple of points about the product and production process that are worth highlighting today. Biodiesel production generally involves transesterification, which reacts methanol with triglycerides in the fats and oils to create a methyl ester.

Depending on the production plant and the feedstock used, the plant may have equipment to pretreat the feedstock before it goes through the transesterification process. Following transesterification, the production process may also include additional steps on the back end to remove other non-fuel components. All biodiesel qualifying under the RFS meets the ASTM D-6751 standard for fuel.

The end result is a fuel that is non-toxic, biodegradable and possesses certain other advantages over conventional diesel in how it runs through a vehicle's fuel system. The United States consumes about 60 billion gallons of diesel every year, with biodiesel accounting for a growing but still limited portion of these gallons, about 2.2 billion gallons in 2016.

Of the 60 billion total gallons, about two-thirds of that is consumed, as you heard earlier, is consumed on highway, mostly again in 18-wheelers you see hauling cargo and delivering goods. Significant volumes of biodiesel are also used in the heating oil market,

particularly in the northeastern United States.

Heating oil is simply diesel fuel. Beyond transportation fuel and heating oil, smaller volumes of biodiesel are consumed in machinery and equipment used in various industries such as agricultural and mining. In all of these applications, biodiesel is blended with conventional diesel or petroleum diesel at varying levels.

To fulfill these end uses, biodiesel is sold through several major channels of distribution or customer categories. Biodiesel is sold to large petroleum refiners, companies like Exxon, Marathon, Valero and Shell, which under the RFS framework are considered obligated parties. These companies utilize terminals where they blend large volumes of petro diesel and biodiesel. They then distribute that fuel to retail outlets that they or others own.

These large energy companies also sell to other distributors that may pull the volumes directly from the terminals. Biodiesel is also sold, as you've heard earlier, directly to large distributors, the largest of which are national travel centers, also known as truck stop chains. The 18-wheelers I mentioned are filling their tanks with a biodiesel blended at retail outlets. The national chains purchase and blend large volumes of petro-diesel and biodiesel and distribute fuel to their retail outlets across the country, or they receive it already blended from

upstream.

So while you might consider those truck stops to be retail outlets, we consider those customers to be distributors, because of their own large distribution network. Finally, there are other smaller or mid-sized distributors, fleets and jobbers that purchase biodiesel, that in turn supply local companies for retail use.

At the wholesale level, where REG and other mid- to large producers compete, much of our business is conducted pursuant to contracts. A typical contract covers a fixed volume over a period of time, usually a month or a quarter and sometimes up to a year in our example. The contract price is typically indexed to a published diesel price. It's commonly referred to as New York Harbor Ultralow Sulphur Diesel, or ULSD, also referred to as the New York Mercantile Exchange or NYMEX heating oil price.

The contract price may be expressed as a discount or a premium to NYMEX, depending on how the biodiesel is sold. If you're talking about B-100 with RINs, you're likely talking about a premium to NYMEX, especially if a tax credit is in place. If you're selling B-99 rimless, the price would be expressed as a discount to NYMEX.

The final price of biodiesel is influenced primarily by three factors. First, the price of the fuel

itself. Here, you want to recover your manufacturing costs, and as discussed already, the most important of those being feedstock costs, which can account for 85 to 90 percent of your total cost of goods sold.

Second, biodiesel price may include the market value of the RIN, and third biodiesel price may reflect the value of the federal blender's tax credit or some portion of it. Some states, as you've heard, also provide certain tax incentives and programs. While those are the primary drivers of biodiesel price, we generally do not invoice these separately.

Rather, the final price to the customer is a negotiated bundled price that reflects some combination of these elements. I mentioned selling biodiesels with RINs and RINless. Let me elaborate for a moment here. While biodiesel producers generally do not separate RINs from biodiesel they produce, certain producers can structure their transaction in a way that allows them to obtain detached RINs or the K-2s that you heard about earlier from their customers.

That allows producers to be able to sell detached RINs independent of the fuel they produce themselves. There's no doubt that imported biodiesel from Argentina and Indonesia have led prices significantly lower. It's no surprise why either, as biodiesel industries in

those countries are notoriously subsidized.

Biodiesel is a commodity product. Purchasers are basically buying the cheapest biodiesel available, and that happens to be imported biodiesel from Argentina and Indonesia. The huge volume of biodiesel imports are coming into the Gulf Coast and the Northeast ports. Those volumes are displacing domestic product most significantly in those areas.

This is most obvious in terms of the Northeast heating oil market, where imports have basically supplanted REG, which was -- were an early stage investor in developing the Northeast demand for biodiesel blending into heating oil. These large increases in import volumes also depress RIN values. Even if imported biodiesel does not make its way to certain parts of the country, low-priced imports serve to depress prices across the country through lower RIN values and lower overall sales prices.

Low-priced Argentine and Indonesia biodiesel has had a major negative impact on REG. At a time when demand has increased and feedstock costs have declined, our biodiesel margins have actually shrunk, and shrunk to unsustainable levels. Let me assure you, REG is a low cost producer. We have an efficient shared service arrangement covering all of our plants. We're centrally located in Ames, Iowa, low cost part of the world.

We're a leader in using a broad array of a whole host of different lower cost feedstocks, and we've made a number of investments to enhance the efficiency of our production processes. Yet in this environment, where we are consistently having to choose between selling at low prices to meet cheap import prices or lose sales volume, we're losing money at certain plants and in far worse financial position today than in 2014.

The investments that we've made in plant expansions and operational efficiencies have not produced adequate returns to justify and support reinvestment in expanded capacity. Here it's also worth noting REG not only owns 11 producing biodiesel plants, we have four partially completed plants.

We acquired two partially completed plants, one in Atlanta, Georgia, another in Clovis, New Mexico. We also began construction on two plants but did not complete them, one in New Orleans, Louisiana, another in Emporia, Kansas. Given market conditions we have not been able to obtain reasonable financing from banks to complete these plants. In 2016 at the end of the year, we fully impaired or wrote off the property, plant and equipment value on the Emporia facility, to the tune of $16 million.

Unless market conditions improve, REG cannot move forward with completing these plants. In addition,

there are other distressed plants in the industry due to poor market conditions. REG would consider acquiring these such assets to support our continued growth, but low priced imports and negative return on investment have led our board to reject any such acquisitions.

We're not looking to block imports from the U.S. market, but we are looking for fair pricing in the market. At this point subsidized and dumped imports are capturing most of the growth in the U.S. market, and you actually saw in 2014 and '15 a decline in domestic production.

We're looking for fair pricing, so that we can generate adequate returns on investments when we invest in the industry and reinvest in our business, and to continue to play an important role in this growing market. As was discussed earlier, 2016 should have been a banner year. You saw energy prices rebounding, feedstock prices coming down. But what the actual result was tightened margins and increased discount to diesel prices at the wholesale level, relative to biodiesel, and RIN prices that wouldn't reflect essentially the type of return we would need to make further investments in the industry.

So with that, I thank you for your time and look forward to your questions.

STATEMENT OF DR. ROBERT MORTON

DR. MORTON: Good afternoon. My name's Dr. Robert Morton. I'm a co-founder and currently chairman of the board at Newport Biodiesel, which is based in Newport, Rhode Island. We are the only production facility in Rhode Island, and compared to REG, Newport is a small producer with an annual production capacity of about five million gallons per year.

We are one of a number of small producers spread throughout the New England region. I want to emphasize that, although we are a small producer, many of the things we heard about small producers this morning just are not true.

We are part of the QAT program, and all of our RINs have always been valid. They have never had any issues that way. And the same holds true for the other small producers in New England.

While we are a relatively small producer, we are also significantly impacted by subsidized and dumped biodiesel imports from Argentina and Indonesia. In fact, those low-priced imports can have a disproportionately greater impact on smaller producers like us because of our cost structure and our limited ability to reduce unit costs through larger volumes.

Let me give you a little background about Newport Biodiesel. I started the company in 2007 with four other

partners. Each one of us is committed to creating a cleaner and more sustainable environment. I personally believe that climate change is a definining issue of our times, and it is important for the United States to take the lead in reducing greenhouse gas emissions.

That is the main reason why after 35 years as a career oceanographer I joined with my partners to form Newport Biodiesel. Our goal was to produce a clean fuel from recycled waste vegetable oil that would make a significant contribution to reducing greenhouse gas emissions in Rhode Island, while at the same time creating green jobs.

Soon after forming this group, we decided to scale up and make it a more serious endeavor. The founders raised about a half a million dollars from local investors and, coupled with the state department of commerce loan, we rented a facility and bought a biodiesel production system.

Unfortunately, the system we bought was a dud. But we rebuilt it ourselves, something we're very proud of, and we're still in the same location. And since that time we've expanded our capacity from an original 100,000 gallons per year to about 5 million gallons per year today.

We have been very careful not to over-extend ourselves, growing only to the extent that our revenues and balance sheet supports it. And I can say that the current

import competition, particularly Argentine biodiesel shipments into New England, has stifled our company's ability to grow. And expansion is key to the viability of small producers so that we can be able to reduce our unit costs.

Since our founding, Newport Biodiesel has always produced our fuel from used cooking oil, which we collect from more than 3,000 restaurant partners. Our collection system used to satisfy most of our feedstock needs, but now as we've grown we have to purchase additional used cooking oil to supplement our supplies for biodiesel production.

It used to be that restaurants would pay to have their used cooking oil taken away, where it would then be trashed in a landfill somewheres. When we started Newport Biodiesel were doing restaurants a favor of taking their used cooking oil and were able to get it for free.

But now there's a real demand and the value for used cooking oil, and so we pay for it. But it's still cheaper than soy oil or canola oil as a feedstock. Our facility has equipment to refine the used cooking oil that we collect, and that refined feedstock is then processed into biodiesel through the transesterification process.

Most of Newport's biodiesel is sold to regional distributors to supply the Northeast heating oil market in the winter, although we also supply biodiesel as

transportation fuel in the warmer months.

In the heating oil segment, distributors maintain their own tanks, blend at their facilities, and distribute the biodiesel blend at retail or residential levels. Our regional distributor customers typically blend biodiesel to a B20 blend, 20 percent biodiesel by volume, and they market that product as a green fuel that is cleaner than natural gas.

We also sell to large national distributors. When these large distributors purchase and blend biodiesel, they typically blend at a less than 5 percent biodiesel or B5. In doing so, they don't even market the fuel as a biodiesel blend, and are only doing it because it is cheaper than petroleum diesel.

In this context, the terminals are always looking for the lowest price available. As Chad discussed, biodiesel pricing is typically communicated as a discount off the NYMEX value. As I mentioned, the primary factor in purchasing decisions of the large national distributors and terminals is price.

In the last few years, imports from Argentina and Indonesia have absolutely been the lowest prices in the market, and have paved the way for a huge surge in import volumes coming into the Northeast.

The low prices at which these large national

distributors are purchasing imported biodiesel have a direct effect on the prices to our regional distributor customers. Our customers know the price of imported product and look to leverage those prices in seeking price reductions from Newport Biodiesel.

If we don't reduce our prices, we lose volume, as our customers always have the option of sourcing biodiesel from those large terminals throughout the Northeast.

In recent years, increased volumes of low-priced imports have had a major impact on Newport Biodiesel. 2016, as we all talk about, should have been our best year ever, but the low price at which we were forced to sell our biodiesel has absolutely squeezed our margin.

When we talk about margins, I know there will be people who talk about the impact of the blender's tax credit. In our case, and probably in others, the tax credit has been the difference between modest profitability and losses. That may be true, but it shouldn't be.

If there was a fair pricing in the market, we are confident that Newport would be profitable without the tax credit. Let me put it bluntly. Last year declining sales value was not even close to covering our raw material costs. This was not the case just two years ago.

These negative margins have prevented us from making significant capital investments. We have halted

several plant modificati9on projects as a result of our reduced working capital, and even for more modest projects we have had difficulty obtaining financing and we've had to reduce the size of such projects in order to maintain a cash reserve to compensate for the low biodiesel prices.

Newport is in the same facility we entered 10 years ago. Our facility cannot expand much beyond what we have today, and we have considered finding a new location and building a larger biodiesel production plant. But because of the unhealthy market conditions, there is no way that we can do that today.

In short, we are being limited in our ability to be a productive U.S. green energy company in what is otherwise a growing market.

We ask that the Commission create a level playing field for Newport Biodiesel and other U.S. producers so that we can help lead the way for the United States in renewable energy production.

Thank you.

STATEMENT OF PAUL SOANES

MR. SOANES: Good afternoon. My name is Paul Soanes. I'm the president and CEO of Renewable Biofuels, otherwise known as RBF.

RBF owns and operates the largest biodiesel plant in North and South America in Port Neches, Texas, which is

on the Gulf Coast just east of Houston. And we are a privately held company.

Along with my partner, I co-founded RBF in 2007 and we built our plant on the site of the Huntsman Corporation Petrochemical facility, and we invested well over $100 million to build a world-scale biodiesel plant. So like others in this industry, we are heavily invested.

RBF's scale, superior logistics, and location make it a unique and industry-leading asset. As I mentioned earlier on, we are the largest plant in both North and South America, and we are a low-cost producer of very high quality biodiesel in the Gulf Coast.

Our plant's co-location with Huntsman allows us to enjoy significant cost and logistical advantages. We have superior trimodal logistical capabilities which allow us to deliver product to our customers by marine, rail, or truck, and across into the interior, as well as across the country to the Northeast where we often ship large quantities of biodiesel to the New York Harbor market.

In addition, our location on the Gulf Coast puts us in close proximity to a number of the largest refineries in the country, which obviously prefers us from a market perspective. RBF is a highly efficient, low-cost producer of biodiesel and we have very low conversion costs through, as was talked about, continued investment in a

high-efficiency production process.

Sadly, the logistical, cost, and efficiency and location advantages we enjoy over the majority of the industry have not helped us overcome the very negative effects of dumped Argentinian and Indonesian biodiesel into our market.

In terms of our production process, we have two parallel process units for both pretreatment of the feedstock in transesterification of production into biodiesel. From a production perspective, we are able to use multiple feedstocks, and we have over the course of time run multiple feedstocks, but we primarily focus our production on using either soybean oil and, when it's cheaper, canola oil, so that we can scale up production to make it more efficient and more cost effective.

I mentioned earlier that RBF is located on the Gulf Coast in close proximity to a number of major refineries. So as you would expect, our customer base includes a significant amount of obligated parties whose names would be very, very familiar to you.

We also sell biodiesel to discretionary blenders, which includes travel centers and national truck stops. While these parties are not obligated parties, these customers typically purchase biodiesel primarily on the basis of price. That is, they will only purchase biodiesel

if biodiesel is discounted to diesel so as to improve their earnings.

RBF also sells biodiesel to traders or commodity houses who are likewise focused on price. These trading companies are always telling us the low prices and offers that they are receiving from imported biodiesel both from Argentina and Indonesia, putting significant pressure on our prices and our operating margins.

In addition to selling biodiesel in and around the Gulf Coast where we are located, we also sell to the Northeast market. The Northeast market is a very large market for both transportation fuels and heating oil, and we are able to reach it via sending large shipments of biodiesel through marine locations.

But they are also able to be served from the Midwest markets by rail, as Chad mentioned. And I think the Gotham Claypool also serves that market. The huge increase in low-priced imports from Argentina and Indonesia coming to the Gulf Coast and the East Coast has taken significant volume away from RBF and our customers in our natural market regions.

With the large influx of imports now supplying volumes that we used to supply to our traditional customers in a market where we are located, RBF has been displaced and we have been forced to look for new customers, sending our

product into the interior in both the Southwest and Western parts of the country.

Serving these new regions is less efficient and more expensive for RBF, which further erodes our margins. Can you imagine that? We are the largest volume producer in the country. We are --- sorry, single largest asset-producing in the country. We have a very efficient production process. We are a low cost product into that market. We are located directly in the market. And because of imports we are forced to send that product into the interior markets and capture lower margins and reduce profitability, all because of imports.

The price pressure placed on imports has required RBF to try to create value for our customers in nontraditional means. So for example, we have created partnerships with several distributors where we offer them favorable credit, just-in-time delivery, and other enhanced customer support services to allow us to continue to retain their business.

These are modest steps that RBF has taken to avoid getting completely overtaken by the cheap imports. Sadly, at the end of the day this is the commodity market. And even with these steps, where price continues to be a dominant factor the strategy can only be so helpful and we continue to lose market share.

As Chad described earlier, biodiesel pricing is influenced by three primary factors: feedstock prices, RIN values, and the value of the tax credit. But now as we price our product, we also have to consider the price of imported product. There is great transparency in the biodiesel market in terms of pricing.

We can observe the market price of soy and biodiesel coming out of Argentina. When we see biodiesel from Argentina selling at a discount to the market price of soy oil, which is the main input for biodiesel in Argentina, we know we are facing dumped pricing.

Brokers and traders tell us on a nearly daily basis the pricing for imported product. These prices are typically communicated as a discount off the NYMEX, heating oil price, and we are consistently frustrated by how the levels of discounts to NYMEX have grown consistently since the large influx of imports in 2015 and 2016.

Regrettably, we often are compelled to meet these low import prices as we are still better off producing as opposed to shutting down. We have a continuous process plant, and it is very expensive to shut down and turn back on.

While we can slow production, and we can store significant volumes, at the end of the day we are forced to meet the low prices of dumped and imported product and sell

at those low prices if we are going to retain our market share and customer base.

Unfairly traded imports have hit RBF very hard. As mentioned, these low priced imports have taken volume from RBF. This is reflected in the fact that RBF has significant unused capacity this past year.

Our goal since day one in building a plant of that size was to produce high volumes that would allow us to reduce our unit costs. Sadly, we are not realizing those savings.

As I mentioned earlier, RBF is an extremely efficient low-cost producer of high-quality biodiesel. During the Period of Investigation, our feed costs and production costs all reduced. We increased our production capacity and overall production, dramatically reducing our unit costs of production, and in that same time period our profitability went down significantly, and our margins reduced precipitously.

That really should not have happened. You would really think that if you're lowering your costs, improving your efficiency, increasing your output, that you should be earning stronger margins and better profitability. Reduced margins have had a direct impact on RBF's level of investment, which has been minimal given the other favorable market conditions I have just mentioned.

The core of that capital project over the years has been related to logistical and operational efficiency, which has allowed us to produce significantly more than 100 million gallons of biodiesel in 2016. We spent money to build out our capabilities and to more efficiently ship biodiesel by truck, rail, and marine vessel to our customers.

Since we became operational, we have shared a dock with Huntsman. To expand our marine capacity, we have been seeking to build a proprietary docket. We obtained a permit for this build-out, but we have not yet moved forward. This is one major project that is very difficult to undertake, given the import situation. The level of investment required for this type of a project, in excess of $25 million, requires some level of certainty in the market, and with the current import volumes and prices and resulting compressed margins, there is no way we could secure the financing from our board to move forward with this project.

There is also a great lack of certainty in the market as to import volumes and prices. All of us in the industry fully understand subsidization in Argentina and Indonesia which allows these producers to sell in the United States at discounted prices below the cost of their feedstocks.

The problem is, there's no way of knowing whether such subsidies will grow, and for how long they will be in place. In this context, we have no way of knowing whether the lower import prices we have seen have hit a floor, or whether they will further continue to decline. We have no way of modeling or planning for the future.

The United States is the key market for these exports, and without a remedy these unfairly traded imports are likely to continue unabated. That is a further threat to our business.

I thank you for your time this afternoon and look forward to answering your questions. Thank you.

MS. HAINES: Does that complete your testimony?

MR. LEVY: Yes, that concludes our prepared testimony and we look forward to your questions.

MS. HAINES: Thank you. Start with Mr. Comly.

MR. COMLY: Good afternoon. I'd like to thank you all for coming before us. And I'll try to keep my questions short as always and then second round I'll hit you up again if I need to. Let me start with some really preliminary things. Is it possible to produce other products on the same equipment as biodiesel? So if you can't produce biodiesel, can you throw something else in there?

MR. STONE: No. Effectively -- this is Chad

Stone with REG. Biodiesel plants are built specifically to produce biodiesel. There's some immaterial byproduct offtake that we do produce and it can get sold into different markets, but it's immaterial.

MR. COMLY: But those are really a byproduct of producing biodiesel?

MR. STONE: Of producing biodiesel, yes.

MR. COMLY: Thank you. Is it possible for a biodiesel producer to run 24/7? 365 days a year? Well, less maintenance period?

MR. STONE: Yes, this is Chad Stone. So all of our plants are continuous flow. They're intended to run 24/7. The only time they wouldn't be running 24/7, if market conditions existed that -- so largely, even if a plant's losing a little bit of money, it makes sense to run as long as it's covering its variable costs. If it can't cover its variable costs, it has to go down. It's got to be a pretty extreme environment to not cover variable costs, and we did run into that situation and do today.

DR. MORTON: This is Dr. Morton. I would agree with that, I mean, if we're small producers especially. Getting to go to 24 hour a day operations is a big step, because then you're getting more out of the unit costs for production. And there are several in New England that don't run that way. But that was our big expansion was when we

finally got to where we could operate 24 hours a day.

MR. SOANES: This is Paul Soanes from RBF. Likewise, our plant is designed to run 24/7 and other than scheduled and routine maintenance, does. Other than in situations when -- as the market was in 2016, where we were constrained on delivering product to customers because of the huge influx of imports and we were forced to turn the plant down or turn the plant off to clear the capacity constraints to allow us to produce to our full capacity. So net, net, the large influx of imports prevented us from running the plant at full capacity.

MR. COMLY: I see. So there's no technical reason why you couldn't run a plant 24/7?

MR. LEVY: Jack Levy for petitioner. I think it's also worth adding that in this highly regulated environment, I think it's fair to say that the policy objective of some of these programs is to add fuel to the fire, so to speak, and accelerate re-investment and expanded capacity, just as the RFS volume targets increase. What we're seeing in the current environment is that U.S. investment in capacity, the will is there, but that re-investment is being stifled and it's only because of subject imports.

MR. COMLY: Thank you. How do you respond to the argument that there's insufficient U.S. capacity to meet

full demand in the U.S.? And if you could touch on the argument of the fact that the U.S. plants are not located to meet that demand? So for example, they're not located near the coast where the demand is. They're located in the Midwest.

MS. STECKEL: This is Anne Steckel. I can take a first start at that and then have the fellow follow up. According to EIA data, we're at 65% capacity and as I stated in my testimony, we have plants located all across the country, not just in the Midwest, and so certainly the diversity of our plants should allow our industry to grow. Unfortunately, true to these market conditions of our imports, have not seen that.

MR. STONE: What I would say is you've got producers that have downtime due to sales or whatever reason or margins that don't exist. So in certain markets like the Northeast or the Houston area, where you're getting crowded out by imports, you're being pushed to deliver further, to pay more freight to get it to a different point.

And because there's so many RINs out there, RINs are not high enough to justify a return, you do have existing capacity that's run in the past that doesn't make sense to run at times. If it always made sense, these plants could run 24/7 and at higher rates, and we've also proven at our plants that they can run above nameplate in

many instances.

What I would also point to is, looking at record margin times, times when the industry does have good margins and, you know, for example, when the tax credit was lapsing, not only did we see a lot of imports try to come in before the end of year, we also saw a tremendous amount of domestic production just trying to get that in before the tax credit lapsed again.

This is a hard industry. I mean you've got regulatory support that sometimes wanes. You've got a tax credit that lapses. You've got a highly competitive commodity product and we're aggregating these waste, greases and oils and vegetable oils from various places, got a lot of logistics to deal with. And someone was talking about, some of this needs to move in 7,000 gallon trucks at a time. That's a lot of aggregation when you think of a company like ours doing hundreds of millions of gallons.

So it is a tough business and I guess, if you look at the record production times in the industry, you'll see that domestic production exists and it actually has participated.

MR. SOANES: I'll just talk to RBF on that question. Specifically, we are located in the largest market in North America. We are in the Gulf Coast. We run 24/7. We increased production by nearly 20% last year, but

really it should've been around 50%, and we weren't able to get the final 30% of extra production because we were constrained in our own market as a result of imports and we were forced to send our product into non-natural, less attractive interior markets.

So speaking for us, we certainly have way more capacity to offer the market than what we did in 2016. And we are located in a large demand center. And we can move large volumes. We sent a 5-million-gallon boat to the Northeast recently. So we certainly have that capacity to provide large volumes to customers, too.

MR. GETLAN: This is Myles Getlan. What Mr. Soanes is describing has a cascading effect through the industry, through the market. So sure, import volumes are coming in in huge volumes on the Gulf Coast, up the East Coast. As you heard Mr. Soanes discuss, the cost of the displacement in their natural sales regions, they are looking to develop new customers in new locations. Higher costs for them, lower margins for them to sell into the Southwest and the West.

What's happening there is, you have still a very efficient producer who's able to ship there, and you may have, and you do have smaller mid-size producers in those regions who typically are supplying those local markets, and they're being displaced. And so I think a lot of the

capacity utilization, un-utilized capacity that you see reported by EIA is a function of that.

It's these smaller and mid-size firms that are losing out, perhaps indirectly to import volumes, but no less impactful. And I think, if you look -- we only have a couple of exhibits that we provided you, but on the second or third page of the packet, you see that volume of un-utilized capacity, unused domestic producer capacity. It's very substantial, and it's more than enough -- it's adequate to cover what subject imports equated to.

MR. LEVY: Mr. Comly, the only thing I'll add is that if differences in logistics explained everything, then the pricing data which asked domestic producers and subject imports to report things on a FOB point of shipment basis, which shows something very different. What it shows is preponderance of underselling on an Apples to Apples basis, in terms of logistics' costs. So as far as we're concerned, the record on this preliminary phase investigation, evidence is that that's a red herring.

MR. COMLY: Just going off of that point, how would you respond to Mr. Whitney's point about the fact that they're such a large buyer that they value, not necessarily the cost, but the ability to load numerous number of trucks within a certain amount of time?

Is, say, RBF able to do that as well? To

compete head-to-head with that kind of ability in the efficiency that they prize highly, which may or may not be associated with the price?

MR. SOANES: So we have a long relationship with BioSphere, Musket. We have supplied them for a significant period of time. We have five truck racks, sorry, four truck racks at our facility, and we can take trucks 24/7. In addition to that, as I said earlier on, we have moved parcels of biodiesel from Port Neches up to New York Harbor in 5 million gallon parcels, which is huge, right? So we can provide trucks and we can provide large parcels. Our preference is to provide large parcels. It suits our production profile. And we can provide those large parcels into any of the waterborne areas that he currently imports Argentinian product into.

MR. LEVY: Mr. Comly, let me tease Mr. Whitney's phrase, let me add some color. Mr. Whitney is the largest importer of Argentine biodiesel according to public records. He's also a significant purchaser in terms of the affiliated entity Musket & Loves. So we understand that he has a position and an interest in this proceeding.

But it's also worth remembering that there's a great diversity of purchasers in the U.S. market. You have obligated parties like refiners. You have blenders, large and small and their interests and their needs vary. And

I've asked maybe, perhaps, Dr. Morton to speak briefly to the complexion of the heating oil market in New England, just to give you some more perspective on what the needs are on purchasers in that region.

DR. MORTON: I would like to say, going back to your original question, before there was all these imports coming in, somehow they supplied New England with biodiesel. Some of it came from REG and we've just heard that RBF can ship to New York. So there's plenty of opportunity to get the fuel there. However, those big distributors that I talked about in New England, they are buying their fuel at way below NYMEX and they're selling to the distributors, it goes out at NYMEX.

So those guys are making a huge profit on this whole situation and that's why they're all here objecting to this. The other way around, we're having to fight in that market just for share, to be able to sell something. And I mean that's the bottom line of why we're here, is because they are just undercutting everything we're trying to do.

MR. STONE: In the early days as the bio-heat industry developed in the Northeast, we've invested out there. We've gotten into terminal positions. We sent railcars from our Danville and Newton plants in the winter months. For us, it was great because it was an offseason demand quarter for us.

So when transportation demand in the Midwest is low, it makes sense for us to keep producing because feedstocks get cheap because demand goes down. And if we can ship that to a market in the winter that burns that in an indoor application, in a heating oil application -- we had regular railcars going out there in support of that winter heating oil season.

We invested in positions out there and if it's already there in time, you know, as we would build it up and we could just locally distribute it. So we've invested there. We've also invested in the Northeast energy services business in support of heating oil and transportation in the Northeast that has been impacted and continually behind projections.

MR. COMLY: Let me just ask one final question. In the respondent panel, someone brought up the fact that the timing of the availability of harvest for the feedstock and how that for Argentina, Indonesia made the biodiesel available in the U.S. in the spring, whereas the U.S., you know, the harvest is in the Fall, obviously, and that would mean biodiesel comes into the market in the Fall, and so Spring is the beginning of the demand period, and the Fall is the end of the demand period, at least for the trucking. How would you respond to that and how does that affect competition and pricing and things like that?

MR. STONE: I'll start. This is Chad Stone, REG. So yes, there are some normal seasonal patterns. If you watch it year after year, you'll see demand for biodiesel is strongest second and third quarter. That's because that's when most of the long-haul deliveries occur. It's warm weather.

Fourth quarter, it really depends on the regulatory environment and whether obligated parties are behind in their RIN obligation or not. And if tax credits lapse. But first quarter, transportation demand is predictable. It's way down. Demand for biodiesel is low. Demand for diesel is lower. And blends of biodiesel into diesel is at lower concentrations and that has to do with state requirements, state programs, tax incentives, different regional things and just the weather in that area.

But REG is a little bit unique. We're not--the majority of the industry is focused on vegetable oils, soybean oil, canola or things that are highly refined--we've made a lot of investments to be able to take lower cost feedstocks that have impurities, and we sell not only 24/7, but 365 days a year we have sufficient fuel. There's a tremendous amount of infrastructure out there to store.

So before we had the heating oil market demand, what we would do is we would take that fuel and send it to a terminal and store it for the winter, and when demand picked

up in the Spring, it was there. So you can predict volumes and demand and produce in advance, or when feedstock ebbs and flows. It's right to think of the seasonality in the industry, but the availability of feedstock and fuel is there to meet demand.

MR. LEVY: Mr. Comly, I think that's a really important point. Listening to the testimony this morning, one would get the impression that the U.S. industry is a monolith and uses only soy oil to produce biodiesel. Nothing could be further from the truth.

You heard from Ms. Steckel and others this morning that U.S. biodiesel producers are using a wide diversity of feedstocks in order to manage the efficiencies of their operation. To be sure, soy oil's an important feedstock, but we also see the prevalence of canola oil, used cooking oil and greases and other animal fats including tallow.

So we heard a lot this morning about Indonesians bemoaning their higher cloud point and that somehow this impacts the desirability of their product in cold weather months and cold flow properties. Well, the cloud point of Indonesian biodiesel is almost identical to the cloud point of U.S.-produced biodiesel from, say, a tallow feedstock.

So again, it's important to remember that the U.S. industry is not a monolith, and on this question of

seasonality, there's no question that the Northeast heating oil market is seasonal. Strong demand in the winter. The Argentinians are crushing that market with low prices, exactly during the period when they would have you believe that they are somehow inverted in terms of their seasonal crop. So I think that that argument is -- it's true to some extent that there's seasonality in the business, but that is not what is explaining the displacement of U.S. producers.

MR. SOANES: I think specifically though your question was directed to the availability of feedstock.

MR. COMLY: Yes, that was part of it, yeah.

MR. SOANES: Right. So, vegetable oil, I think it counts for roughly 60% of domestic volumes of production. But don't hold me to that. I think there's something more accurate in the record. We're the largest single producing asset using vegetable oil in North and South America. We have never had a problem sourcing vegetable oil for our plant.

And we have a comprehensive buying program. We buy from multiple suppliers of vegetable oil, and we have most of our buying put in place for the remainder of this year already. And other than issues on price and issues on delivery reliability, we have had no problem whatsoever sourcing the feedstock we need to run our plant at full capacity throughout the year.

DR. MORTON: I mean obviously in New England we're using used cooking oil exclusively which has no seasonal variability to it, and as we heard earlier, in the wintertime we sell heating oil almost exclusively. And around April or so, we change to on-road fuel, and there's a whole big demand for it there, so we have seasonal markets in a way, but a constant source of feedstock that has no impact depending on when it is.

MR. COMLY: Thank you. I think I'll end my questions there for now.

MS. HAINES: Mr. Haldenstein?

MR. HALDENSTEIN: Michael Haldenstein, Office of the General Counsel. I do have a few questions about like product, even though it doesn't sound like respondents are gonna contest it. Are there any distinctions between B100 and B-99 the Commission should consider when it's conducting its like-product analysis?

MR. STONE: Consistent with what you've heard earlier, it does not take much to sell either B-99 or B-100 in terms of catbacks or infrastructure. It's a preference of the producer and sometimes the seller. It should be thought of as the same.

MR. HALDENSTEIN: I just heard that there were different feedstocks used to produce biodiesel, so are the production processes the same, pretty much? For the

different oils that are used?

MR. STONE: So different feedstocks with more impurities require additional investment and capital expenditure. So for example, if you're taking things like used cooking oil that tend to have a lot of -- some locations have more water in used cooking oil that you need to get out. Some of it has solids or solubles that need to be filtered. There is pre-treatment capability needed.

If you're taking an ethanol byproduct, inedible corn oil, and spinning the oil out of that, we can convert that into biodiesel, but it's very hard. It needs to be color-treated, it needs to be pre-treated because it's very difficult to handle with a lot of impurities. And then on the back-end, if you don't handle it properly, it comes out red, and that's the same as basically red-dyed fuel cannot be used on highway because that's a nontaxable off-road fuel, so it requires back-end treatment as well.

So the more impurities does require -- once you get to the basic triglyceride, or the fats and oils that have been purified, the middle bio-refinery can be the same as any plant, but in order to take high impurity feedstocks, you need front-end pre-treatment capability and back-end processes to clean it up. For example, distillation.

MR. GETLAN: At a higher level I think, you know, all biodiesel, regardless of feedstock, once produced,

meets the same ASTM spec. It meets those physical characteristics. And Chad, I believe there are a number of plants that can process multiple feedstock. So you can produce -- a single plant could produce biodiesel with a range of feedstock. So again, biodiesel, regardless of feedstock, produced on the same manufacturing facilities, and at the end of the day, meets the same physical characteristics.

MR. HALDENSTEIN: Are there different uses for biodiesel from different feedstocks? Or they do pretty much the -- interchangeably by purchasers?

MR. STONE: So they're all produced to the same fuel specification, but it may take more to get it to that quality. And then there's been discussion earlier, depending on the climate that you're in, something like tallow or palm ethyl ester with a high cloud point, there's temperature difference or cloud point differences, but otherwise, it's to the specific fuel standard.

MR. SOANES: If it could just clarify, for all intents and purposes, biodiesels is either sold into heating oil or as a blend stock into petroleum diesel. That's it.

MR. HALDENSTEIN: Thank you. And we also heard about different RINs attached to different types of biodiesel depending on whether it's made from palm oil or soybean oil. Is that something that purchasers are very

concerned about?

MR. STONE: One thing I want to highlight related to that is, biodiesel goes into diesel. It doesn't -- it's not ethanol. It's completely different, different engine, different distribution, everything. Ethanol goes into gasoline.

So if a biodiesel is displacing domestically produced biodiesel, even if it's creating an ethanol RIN, it's still a gallon that doesn't need to be delivered from domestic, but that's just the one thing I wanted to point out is a lot of times, we're confused with ethanol.

MR. SOANES: I think ultimately we don't buy biodiesel. We do sell a lot of it and what we see with our customers is that they're ultimately focused on what is the end price of biodiesel represented as a discount to NYMEX. If you're going to buy palm ethyl ester with a D6 RIN, you would take it into account in determining whether that palm ethyl ester was economic for you. What we saw last year were, there were significant import, and significant increases in palm ethyl ester because clearly it was economic on that basis. D6 or D4 and didn't make a difference.

MR. LEVY: Jack Levy for petitioner. I think this issue requires a little more elaboration because you know, obviously, we've heard a lot about it this morning. I

think it's fairly clear that U.S.-produced biodiesel generates D4 RINs. It's also clear that imports of Argentine biodiesel generates D4 RINs. And that imports of biodiesel from Indonesia palm ethyl ester generates D6 RINs. In all cases, 1.5 RINS per gallon of biodiesel.

It's also clear that there is, to the extent the price of a gallon of biodiesel has a value. That value is a function of the fuel and the RIN and someone's perception of whether, to what extent there's a tax credit for the blender to be had there. And I don't think there's any dispute that the market ascribes different value to a D4 or a D6 RIN. And the D6 RIN historically has been less attractive, but the magnitude of that delta has varied over time.

I think someone educated me the other day that, on the subject of nesting, you could think of D4 as like O+ blood and D6 as B+ blood, right? So the O can be the donor to B, but the B can't be a donor to the O. And so D4 can be used to satisfy D6 RIN obligations, but not the other way around.

There are, I guess, two important considerations from the perspective of the staff, when you reflect on these RIN differences. One relates to the pricing data. And how are you supposed to make sense of the pricing data when you're comparing the Indonesian quarterly prices to U.S. producers? And I think the answer is several.

First, to the extent you have product 3, which is a RIN-less biodiesel, you're in the world of making Apples to Apples comparisons. No worries there. To the extent that you're in the world of products 1 and 2, where you have B100 with RIN, you have B99 with RIN, one needs to understand that some adjustment is required to account for the fact that there's a different imbedded value between the D6 and the D4 RIN. And we will work on trying to explain how the Commission can best analyze that consideration consistent with your questions. But I think that's the issue. I think you've framed it correctly.

The other piece regarding Indonesian D6 RINs, I think we heard this morning testimony that Musim Mas and Wilmar were capacity-constrained because of their grandfathered facilities, and that is was illegal for them to sell more than those grandfathered volumes in the U.S. I think that might have been an incomplete answer.

I think what they meant to say was that there was a volumetric limit on how much D6 RIN-based biodiesel they could ship to the United States under the RFS program to the extent they wanna ship RINless biodiesel from Indonesia, I don't think there's any limitation on the quantity that they could ship and sell RINless biodiesels, whether to non-obligated parties, into the home heating oil market, and what have you.

So I think that's an important question to develop in talking to them, but I think they may have underestimated their capacity to ship into the U.S. market, particularly for RINless biodiesel volumes. So somehow related to the RIN question, but wanted to put that out there.

MR. STONE: I wanted to add one more thought along those lines, because today, you've asked a lot of really good questions that have exposed you to a lot of our regulatory complexities. So because of that, what I would like to do is, when you get down to it though, there is a lot of moving parts. You've got RINs, you've got the Renewable Fuel Standard. You've got tax credits. You've got ethanol RINs versus biodiesel RINs.

But at the end of the day, when you strip it all away, it's treated the same for imports and domestic products. So when you get down to, what is the discount to diesel, to NYMEX heating oil or ultra-low Sulphur diesel that the fuel is moving for? People are paying for compliance benefits and reduced taxes and other things. When you unbundle it and get to, what is the discount to heating oil that I sell this at, you'll see that that discount has increased, margins have gone down, and returns have gone away.

MR. HALDENSTEIN: Let me ask about, you

mentioned the RINless imports. Are there RINless subject imports that are coming in? Do you know?

MR. SOANES: I'm sorry. Could you repeat the question, please?

MR. HALDENSTEIN: Are there subject imports that are RINless? Are they imported in that form?

MR. GETLAN: I think this is, as we said this morning, all imports are B-100 and it's the importation of biodiesel where RINs are generated. I think the question is whether -- or the issue is the fact that once imported and there are RINs, you can still sell RINless biodiesel.

MR. HALDENSTEIN: With respect to the domestic industry and the issue of blending to B-99, you mentioned briefly in your petition that you didn't think blending should qualify and Respondent didn't really push back very much on that point. Could you be sure to brief that in your post-conference briefs, going through the five factors the Commission considers?

MR. GETLAN: Sure. Myles Getlan. I think they didn't push back because the record is quite straightforward. Blending to B-99 is minimal activity and certainly under the Commission standard wouldn't rise to a level of domestic production. We'll address it further in our brief.

MR. HALDENSTEIN: And one more thing. I'm not

sure if you've addressed this already, but how the revenue streams from the tax credits and the RINs should be treated.

MR. GETLAN: We'll address that as well certainly. I think what's quite clear from -- having heard from our industry witnesses, all three of them, as well as Ms. Steckel from NBB is that regardless of how you slice it, this industry is materially injured, and you see it in connection with their comments on inability to reinvest in this growing market.

MR. HALDENSTEIN: Okay, thank you. That's all the questions I have.

MS. HAINES: Ms. Breaux.

MS. BREAUX: Thank you very much and good afternoon. Always enjoy hearing from industry experts. So starting off with what your customers with what your customers see this product as, what are the most important factors your customers consider when making purchasing decisions?

MR. SOANES: What we hear day in and day out is price, price, price. But having said that, you know, location does matter. Quality does matter and quantity do matter as well. But predominantly what we hear from them and the factor that gets discussed most is price.

MR. STONE: I would agree with that. We've got -- in different customers, some of our customers need

the RINs for compliance purposes, so they've got infrastructure they've built so that they can comply with the RFS. Some of our customers are facilitating getting RINs into the marketplace, so that an obligated party can buy them and they may be located in states that have tax incentives.

So if you're in Illinois, as was described earlier, you pay a high tax on gasoline and ethanol and diesel. Well, on diesel you get a break on your taxes if you blend 11 percent biodiesel. So you've got people that wanted to optimize their taxes. So it depends on the need of the customer, but it is -- it's quality, it's location, it's reliability. It's got to be within the fuel spec. Those are the main things.

DR. MORTON: I would add a whole -- Bob Morton. I'd add a whole other view of this. We heard today that people don't want biodiesel. That's crazy. In New England, we have what's called bioheat. The heating industry is in real trouble in New England, because of natural gas coming in and replacing heating oil. If they use 20 percent biodiesel, then they end up with a fuel that has lower greenhouse gas emissions than natural gas.

That is their whole argument for why we should have heating oil industry in New England. So our customers are really looking to get it. That's what makes this whole

thing sort of frustrating, is that we do have a big market of people that want biodiesel and it's all Argentine biodiesel that's coming in to do that, take that market.

MS. BREAUX: Are there any other different types of customers that are looking more to purchase biodiesel without RINs as opposed to with RINs?

MR. STONE: Chad Stone, REG. Yes, there are customers that do not want the price volatility of RINs at all whatsoever. They're companies that are small. They don't have RIN departments. I am the largest producer, my company producers the most D-4 RINs in the U.S. here. So we have a department of people that manage the complexity. We had a point in time where the market walked away from RINs and RINs collapsed, and you know, you've talked about some of the complexity of selling it with RINs, without, adding another RIN so you've got two and a half.

Well obligated parties like that, because they can get -- one gallon gets them two and a half RINs instead of one and a half. They can meet their obligation quicker. But if you're a distributor and you don't have a RIN department and you're buying with RINs and you can create these K-2s once it's blended below 80 percent, what is the value of the RIN when you're able to sell it, when you've gotten it from the EPA or you've blended it below, versus when you bought the fuel and I delivered it to you.

So I bought feedstock. It came to my plant, you know. We've got this forward contract that's maybe 90 days away, and RIN prices have moved throughout that time. So by the time you can actually monetize it, and we had a lot of customers after that collapse after that crash, say REG RINs are your deal.

We don't want to be subject to that risk. We know we made a lot of money on them in the past, but we no longer can handle that risk and you guys know it better than us. So we just only want RIN-less gallons. We do have a big portion of our customers that have moved that route.

What we need to do in response, now we're subject to that risk, but we're naturally in that market. We enter into forward agreements so that we can try to mitigate our exposure to the potential of it. When we've discounted that fuel because we're keeping the RINs and we're going to get that separately, when I've done that I have an expectation of what I'm going to get for the RIN. So I've got to manage that exposure through some forward contracts or getting it back and trading them in the marketplace.

MR. SOANES: Sorry, can I just add to that very specifically. If a customer wants a product with RINs, we sell it to them with RINs. If they want it RINless, we sell it to them RINless and we just manage that risk. It's

part and parcel of the everyday -- it's part and parcel of our everyday business. It's even more complex or less complex. It's just part of the process. It's no problem.

DR. MORTON: Bob Morton. In New England, we sell to a lot of small distributors that really don't want anything to do with having it registered for handling the RINs and everything like that. So we sell exclusively RIN-less and that's the way our customer want it. That's the way we sell it.

MS. STECKEL: Hi, Anne Steckel. Just a real life example of somebody who would want RIN-less biodiesel would be like a school district. A lot of school districts use biodiesel because it's a lot better for the environment. So those folks don't want to deal with the RINs, so that would be an example for you.

MS. BREAUX: So moving on, and Mr. Levy, you mentioned that you will be providing us information on how to interpret the pricing product and the pricing data that was provided. Can you also comment either here or in your briefs on whether or not the pricing products are actually capturing what they are intending to capture?

MR. LEVY: We'll be happy to do so in our post-conference brief. But we think fundamentally you got it right and you can make sense of these data.

MS. BREAUX: All right, thank you. The next

topic I wanted to ask about is when you are selling your biodiesel, how do tax credits come into negotiating with your customers?

MR. STONE: Chad Stone, REG. So in a year like 2016, for example, when the tax credit is in place, a lot of times it's just known that the tax credit's in place. So the bundled value of the total gallon, there's a spot price for biodiesel. It's quoted in Chicago, New York and Houston and California, I believe, reflects a bundled price that includes RINs and tax credit, and the value of the fuel.

In a year when, to get back to my earlier point, in 2015, however, when it was lapsed; we're currently in 2017 and it's lapsed, the industry has gotten accustomed to tax sharing agreements, whether it's 50-50 or I'll take all the risk, just give me a different price. People are making those decisions when it is lapsed.

And then when it's reinstated, if it's reinstated they have the sharing agreement already worked out in their sales contract. If it ultimately lapses and never comes back, for example, they will have to live with the fact that it wasn't reinstated. There's nothing to share, and they know that entering into the contract. So they've made a decision to contract. They know that that's a risk.

There was some discussion about potentially moving to a domestic producer incentive. There's momentum in Congress to try to close a loophole where, you know, international producers are participating in that. There's movements in Congress saying to reduce that. This is intended for domestic production only.

That has momentum but it's never -- it's never been in play. So the only thing that's ever happened is the tax credit being reinstated or reinstated and extended. So it hasn't existed yet.

MR. SOANES: I might just add if you look at the period under investigation, 2014 through 2015, in the end analysis the tax credit was in place for all those years and was part of the revenue stream. Whether it was retroactive or prospective, either way it's been included in the business.

And notwithstanding that, so on an apples to apples basis we still saw our margins reducing, year on year on year, and our net profit going down, even though we improved our cost profile and even though we increased our overall production. So you know, it's -- to me it's just a red herring. It didn't change the injury to the producers.

MR. GETLAN: Myles Getlan. Maybe another way of looking at it is again, as these gentlemen have discussed, it's apples to apples basis. The tax credit

applies for imports and domestics. You've also heard both in the morning and this afternoon the bundle of price. The price reflects a number of factors including the tax credit.

What you see with low-priced imports, importers who are enjoying the benefits of these tax credits, are willing to pass on more of the value of that tax credit to their customers through lower prices, and you know, domestic producers are having to meet that if they're going to -- if they're going to compete.

But the reality is these are tax credits. If they were received by the domestic producers, then they should have been able to hold on to more of that value, and if they did or if they could, they would have been more profitable and been able to reinvest. So again, you're on an apples to apples basis on the tax credits, and the way it plays out in the record and in this industry is importers have used it to further lower prices, to the disadvantage of our domestic producers.

MS. BREAUX: My next question, this is -- in looking at the data and trying to figure out what is going on, this might be for both sides, would there ever be a situation where either a U.S. producer or a U.S. importer say in either the last quarter of 2015 or the first quarter of 2016, when the tax credit came back online, would they in any way try to reimburse their customers, or is the tax

credit, like you were saying, already a part of the bundle of the -- you know, in 2015 first quarter that was what was being sold?

MR. SOANES: I think from the producers' side it's real simple, right. So you heard from the other party and you've heard from us consistently that when the time period for the tax credit is not known, the sharing agreements entered into between the producers and their customers should then become retroactive. You honor those agreements and you pay them the money when you receive it from the IRS.

So it's shared. As it pertains to whether blenders then pass it on back to their customers, I think it's a good question. I don't know how they would, but you might want to check it in the record.

MS. BREAUX: Earlier, we heard about facilities that were collocated. Within the U.S., do you know about how many of these facilities are collocated or really integrated, and this might be for later on in the briefs. But it would be interesting to know if there are any differences between the U.S., Argentina and Indonesia in that regard.

MR. STONE: So this is Chad Stone. I think when I think of the industry, and getting back to roughly two-thirds is vegetable oil-based. A lot of those would be

considered collocated. Of course you could have a biodiesel plant near a rendering facility too. That's another example.

But largely we're talking about the large integrated soy producers and soy crushers. That's what I think of when you think of the integrated collocation example, with ADM, Cargill, Louis Dreyfus, those types of companies, AGP. They're aggregating beans, crushing them to get the oil out so that they can make a better animal feed. They have to do something with the oil. It makes sense to put a biodiesel plant on the site.

That's your primary example. It's the big producers, the large soy integrated folks. But I don't have an exact number. It's a large component of the industry and it's very efficient.

MS. BREAUX: All right. Thank you very much. That's all I have.

MS. HAINES: Thank you. Mr. Yost.

MR. YOST: I just want to welcome you and thank you again for your very useful testimony. I have no questions.

MS. HAINES: Okay. Mr. Allen.

MR. ALLEN: Yes, thank you very much to the companies who took time out of their business day to come here and provide us with this information. It's always very

helpful. I would like to start by reiterating my request this morning should you have any information sources regarding pricing indexes that you think are most beneficial for us to use. I know that you have talked a lot this afternoon about the NYNEX pricing index and how it affects contracts and such, and I was wondering to any extent to which any Chicago or Houston indexes, pricing indexes for soy oil anywhere might also impact the internal decisions that are made.

I'd like to expand that a little bit from my request this morning to the Respondents as well. If you have any recommended pricing indexes for Argentinian soil oil, as well as Indonesian palm oil, we'd appreciate that information that you think is best as well. So now I have a couple of questions which directly relate to the chemistry.

So I understand that only a couple of people on the panel may be able to weigh in. If not, that's also fine. You can include it in the post-conference, and if you think the answer might be really technical and go over my head go ahead and say it anyway, because we're transcribing you and I can take your words to my books and figure it all out after the fact.

There are a couple of phrases I have seen that I haven't been able to explain myself. What are B-100 bottoms? No problem, I'll move on. How about black esters?

MR. STONE: Both of those are byproducts that aren't going into the direct fuel spec.

MR. ALLEN: Okay.

MR. STONE: So these are things -- these are byproducts of the process that gets sold for generally lower values.

MR. ALLEN: Okay. So they're in the process, and they're not an intentional product obviously.

MR. STONE: So for example, if you've run a biodiesel plant for years and years and years, and you want to go in and see what's at the bottom of that tank and clean it out, and you know, you may have accumulated black esters that you're not going to sell into fuel, there's minimum specs that need to be met. So it's not a material revenue stream.

MR. ALLEN: Okay, and on that same thread, the free fatty acids byproduct that's produced, is that -- is that actually produced at the beginning of the process, when the used vegetable or cooking oil is processed to enhance the later biodiesel production?

MR. STONE: So free fatty acids are a characteristic of the feedstock, and if it's too high, you're going to need pretreat capability or a different technology like we have in Seneca, Illinois for example.

Seneca can convert free fatty acids into biodiesel. But most biodiesel plants, they're trying to say this feedstock has to meet a spec of no more than a certain percentage free fatty acids, and they may have some front-end pretreatment equipment to strip it off because it can't go into the bio-refinery.

That can be sold, you know. Sometimes that will go into animal feed or some lower volume byproduct process, or it will go to some of our technology that can handle free fatty acids and convert it into biodiesel.

MR. ALLEN: Perfect, great. Thank you. My last chemistry question deals with kevlets, that are used in there process. I understand that most generally sodium and potassium hydroxide are used, but I've also seen some information that indicates that sodium and potassium methylates are the preferred catalyst for very large producers.

Is that an accurate understanding? I know you can only speak specifically to your companies, but just in your general knowledge, is that an accurate statement as far as large-scale production?

MR. STONE: Chad Stone again. I think we're getting a little bit further over my head in the chemistry, but yes, we do use multiple types of catalysts at different plants depending on the technology and the feedstock we

intend to use, and I would tell you that if you know in this plant it's near by a certain type of feedstock that has a certain type of characteristic, we prefer this catalyst. But I think I'm getting over my head on the chemistry.

DR. MORTON: This is Bob Morton. I'm a little over my head too, but we do use sodium methylate in our plant. So that is our catalyst. So we're not that big of a plant, so I'm not sure where you got that information it was just for big plants.

MR. ALLEN: Some research somewhere I'm sure. No, and that's -- I appreciate that answer a lot, because I just was actually looking for possible confirmation, that it's much more dependent upon the process and the feedstock, not necessarily specifically the cost of the catalyst itself. That doesn't necessarily drive the decision-making process.

MR. STONE: So in all cases from REG's perspective, this is Chad Stone, we do, you know, task different types of catalysts because specifically of cost. But again, back to an earlier point that was made very well, the number one driving cost of our process, it's not people or utilities or chemicals, it's feedstock and chemicals together can be up to 90 percent of our cost of goods sold.

The feedstock is the biggest component of the two. The chemical is a small amount. So if you're, you

know, essentially you're taking -- to make a gallon of biodiesel, you've got to -- let's say a gallon of fats and oils with let's say a pound of methanol and the introduction of a catalyst so that they can chemically react together, the catalyst is a small component, a small volume relative to the methanol and the biodiesel. But it's from a cost optimization perspective, that's why we use more than just one or try different things, to see how it reacts with different feedstocks.

MR. ALLEN: Okay, thank you. My last question has to deal with a term that I don't remember specifically being used today, although we may have talked about it extensively. What is the Q-RIN program?

DR. MORTON: Maybe we should ask Sandra to talk about that. She's the expert on it.

MS. FRANCO: So the Q-RIN, that's basically the quality assurance program that was referenced earlier that EPA created. There was an interim program before it was fully implemented and finalized. EPA ended up finalizing just one set of quality assurance program, and so that's a Q-RIN. So if you are like I think Bob says, a QAP plant, if you are a part of the QAP program, your verified RINs are a Q-RIN in the EPA system.

MR. ALLEN: Okay, and so to the extent that it qualifies under EPA standards, there's no regular

distinction specifically on the assumption that every RIN that's issued is a Q-RIN?

MS. FRANCO: Correct. I mean basically the quality assurance program is a voluntary program, and so what it does is just it provides in the event there is an issue found with that RIN down the road, it provides the purchaser of that RIN some affirmative defense for penalties. So it's just, you know, part of what the National Biodiesel Board had tried to do, and they worked very closely with EPA in developing this, was to create a program that will provide more RIN integrity and provide more comfort to, you know, the buyers of the RINs.

So that's why producers have invested a lot of money in working this out and putting this together. It's just kind of, you know, obligated parties are required to do their due diligence. They can either do it on their own or they can, you know, try to rely on these quality assurance program RINs.

MR. ALLEN: Okay.

MR. STONE: This is Chad Stone. Just to add to that, that's a good summary. The QAP program was EPA's response to dealing with -- to putting a quality assurance program in place to deal with some of the high profile fraud instances that were discussed earlier, to provide the buyers of these RINs the assurance that they have a quality RIN or

this insurance program will back them up in the event that something were to happen, because they've gone through a quality assurance audit by that third party.

MR. ALLEN: Okay. Thank you very much. I have no more.

MS. HAINES: Anyone else? Okay, Mr. Duncan? Okay. Mr. Comly.

MR. COMLY: All right. I have a few more questions. Do you have the Respondents' -- the handout they gave us. If you could look at Slide 13, and this is talking about imports and trying to explain why imports went up and down. So on Slide 13 it says subject imports were depressed in 2014 due to advanced buying in 2013, and I think why that's important is because that means we start our period very low.

So do you agree with that statement in that slide that the reason why volumes in '14 were low was because of that?

MR. STONE: This is Chad Stone, REG. One thing to point out on 2013 and on this slide, first of all this includes renewable hydrocarbon diesel, first. Second, 2013. So you've got that in there, which it's not just biodiesel, as well as you had an unusual market in 2013 that was unrelated to biodiesel. It was related to ethanol.

Ethanol was experiencing -- there was a debate

and a fear that there might be and a fear that there might be a hit of the ten percent blend wall, and that there wouldn't be enough ethanol RINs, and because our RINs are able to satisfy the ethanol, people thought we might need more biodiesel RINs to meet a potential shortfall, which caused an unusual spike in margins.

MR. LEVY: And Jack Levy. We'll study this more and try to give you a complete response in our post-conference brief. Admittedly, we did not go into the staff conference researching the pre-POI.

MR. COMLY: Understandably so, and then if you could address their other slides about the, you know, '14 and '15, where they're talking about the import increase in 2015.

MR. LEVY: Certainly.

MR. COMLY: Okay, thank you. I appreciate that. I asked a question of the Respondents, and for the Argentinian feedstock, in looking at -- looking at the ones that are EPA-compliant I think was the word, maybe I'm misremembering that, do you see -- do you see there as being a limitation on the amount of feedstock for the Argentinian producers?

MR. SOANES: We're not aware of a limitation. I mean we have seen that, we have seen the imports grow pretty significantly and I think absent this action you would have had significantly more Argentinian product imported into the

U.S. in 2017 than what there was in 2016.

MR. COMLY: Okay but to your knowledge we are not getting any kind of limitation or will I should say -- in the future there won't be a limitation in the near future -- there won't be a limitation?

MR. SOANES: Not in the near future but down the track who knows right? It's not an area that we are an expert in.

MR. STONE: Chad Stone, I reiterate what Paul would say when we look at the first couple of months of this year we are well ahead of where it was last year and I am not aware of a limitation.

MR. COMLY: Going back to the quality assurance program -- how many U.S. producers are in that program and is there a competitor advantage with having that and does it allow a U.S. producer competitive advantage over say an formed producer or an importer?

DR. MORTON: I can answer that, this is Bob Morton from a small producer's point of view. Because as was said earlier this morning the big guys all have it taken care of you know. If they are well known and they know they have production then it is all good.

For a small producer like us if we didn't do the co-op program then who knows what our RINS would be worth so it was extremely important for our operation to make sure

that our RINS could be the same price as what REG RINS are let's say.

MR. COMLY: Does anybody know if most smaller producers take advantage of that in the U.S.?

MS. FRANCO: I'm not sure we have a specific number. I mean EPA has those names but we do not. I mean they are not publicly made available generally speaking. So we know, you know, a relatively good portion of our members are participating in the QAP program of the smaller producers.

MR. COMLY: Okay thank you.

MR. MARTIN: Bob Martin again. In New England I only know of one that is not and he is not a member of it because he has his own friend who buys his RINS, you know and so he is an obligated party that can do it. So they have an arrangement already but all the other guys have a co-op program going on.

MR. COMBLY: Okay great.

MR. MARTIN: In New England.

MR. COMLY: Okay do you have any knowledge of the WTO proceedings -- well the EU anti-dumping proceedings and the WTO ruling on it and the status of that? Do you agree with what the Respondents said?

MR. GETLAN: I wouldn't agree that I would expect a major change in the situation in the near term but it

would be foolish to speculate on how the EU complies with any decision in the WTO. What we all know is that these disputes and compliance with decisions and you know how they respond is -- there's quite a bit of discretion and I wouldn't speculate.

Right now there is no indication that they are about to lift duties on imported biodiesel from Argentina and Indonesia.

MR. COMLY: Okay so you disagree with their point that in the next several months it will either reduce -- the rates will reduce or it will go away?

MR. GETLAN: I'm personally not aware of any you know, announcement to that effect so it would be speculation from my perspective.

MR. COMLY: Some basic questions -- how much does it cost approximately to set up a biodiesel production facility?

MR. STONE: Chad Stone, REG, I will give you just some round numbers not to be -- these are not quotes, these are not bids. I can give you a general sense and it is just off the top of my head to give you a frame of reference.

If you are building a plant you know back in 2007-2008 timeframe and you called REG and you wanted a 30 million gallon plant that could only run soy bean oil. You didn't want pre-treatment or anything fancy on the backend,

it was probably about a dollar per gallon nameplate -- around 30 million dollars or so, 35 million dollars to build that plant.

And there are versions of plants that just have pre-treatment that maybe back then were $1.50 per gallon. Nameplate today it may be closer to 2 million, $2.00 per gallon nameplate. On the high end of biodiesel I would say if you wanted to put in a very -- a large plant with scale that has very robust feedstock capabilities -- meaning it could take anything you want, whatever is cheapest and closest and the best you are probably going to pay up to $2.50 per gallon nameplate on a scale of say 30 to 60 million gallon capacity per year.

Just very round numbers not to be used for anything.

MR. COMLY: Right, no it's just a frame of reference for me to see capital investments acquired. And then you said 30 to 60 million gallons, is that -- if I want to start out, I'm a businessman I'm looking at if it is a great venture to get into, what is the minimum you would say is the gallon minimum?

MR. STONE: So it depends on where you are located, what type of feedstock you want to do and what the fuel markets are nearby. So when we started off you know we took a 12 million gallon model in the Ralston, Iowa facility

-- we scaled it up to 30 million gallons.

And then we went around the Midwest and built a bunch of plants nearby feedstock and that's because you know it is commercial scale. And then we have got plants all the way out in Grays Harbor, Washington that are 100 million gallons. We have got a 60 million gallon plant in Illinois.

So I say 30 to 60 because the majority of our plants are 30 to 60 million gallons. Similar in other company's examples, but I think Paul described his plant is the largest one in the hemisphere at I think 290 million gallon plants co-located so I mean that's the biggest one that I am aware of as well.

And one more thing -- point that I was going to say -- if you are in a population center where the feedstock that is available to you is not the abundant Midwest fats and oils that we have around there, you maybe have rendering fats or use cooking oil that gets aggregated but you -- probably in a 5 million gallon to 20 million gallon range because you don't want to overbuild for what's available feedstock or have to pull it from so far away you have given up all your margin to freight.

I said it earlier and it is sometimes overlooked in our industry how important freight and logistics are to being well located and the ability to move product nearby.

MR. COMLY: Now is that feedstock product or is

that biodiesel or both?

MR. STONE: Feedstock first and both if possible and you know it is important also -- so for example at our Seneca plant in Illinois, it is in the middle of the country but it is on the Illinois River tributary to the Mississippi.

We have got barges, inland waterway that could do down to the Gulf. We can either move feedstock that way we could also move fuel that way. We have got barge capabilities at Grays Harbor it is right on a port in the state of Washington. You know that plant before we bought it was an export plant -- it shipped things all over the world and freight rates are cheap now as discussed earlier.

So you want to have many types like Paul has -- you want to be able to move truck in and out, rail in and out and water if you can as well.

MR. COMLY: That makes sense. And then what is -- if you wanted to expand your capacity what do you normally -- I guess when talking to large companies here but for a large company what would the expansion be and how much would that cost?

Would you expand by 10 million gallons, is that usually the minimum?

MR. STONE: So this is Chad Stone, REG. You might -- you could look back at some of the things that we

have announced in the press because we have been investing, we have grown with the industry. We have been around with the industry since the early days and as the industry has grown we have grown.

So we have announced expansions for example we have already announced an expansion in our Ralston plant from 12 million gallons to 30 and we have talked about a 20-30 million dollar range there.

We have done a number of expansions or upgrades or feedstock broadening expansions to make plants more competitive in that 20 million dollar range.

MR. SOANES: I think when you think about expansion you need to break it into two components. The first thing is you have a plant that has a nameplate capacity rating and it is running below that capacity rating -- getting it from say 50 million gallons to 100 million gallons.

If the 100 million gallon nameplate grading and it is running at 50 million gallons, getting from 50 to 100 is pretty inexpensive. It gets people investing in more people, processes and procedures and perhaps some logistics and I think the U.S. industry is poised to add a lot of that very inexpensive capacity as the market becomes available to us when these huge amounts of imports that have been dumped are taken away that are causing so much injury.

Then there's additional capacity that gets added through significant capital investment and really you have some benefit to scale onto and use your existing logistics but you have to build a whole new process plant and pre-treatment and storage and then I think you get to the numbers that Chad mentioned, somewhere around a dollar a gallon, maybe $1.50 a gallon which is you know, significant capital, it takes time.

MR. COMLY: How much time is needed if you haven't met your nameplate capacity? So for example you are running at 50 million and your nameplate is 100, how much time does it take to ramp up to that hundred?

MR. SOANES: So we have been able to do that pretty quickly in less than six months and it is really just finding skilled workers, training them and getting the procedures down. And then you are lining up your logistics. You know we use bean oil, vegetable oil as our primary feedstock and it doesn't just arrive there in one second you have to pre-order it a couple of months in advance and get all of that logistical chain set in motion.

So typically all of that ends up aligning in a 3 to 6 month period to go that kind of significant jump.

MR. COMLY: And if I am looking at -- I think you said there's 65% utilization for the U.S. industry, if we are going to look at them we say alright well we have 35%

extra capacity -- how long would that take for them to bring out? Especially if those plants have been moth balled as was alleged I think in the APA -- and earlier today in EIA's statistics have some of those plants that have been moth balled -- how long is that going to take to turn around?

MR. SOANES: So I can't talk to the entirety of the industry because I just don't know enough but I can talk to us. And we are scaled from a human resource perspective and logistics perspective to allow us to add another 20% instantaneously.

The only factor that would slow us down from getting directly to that higher rate would be putting in place the logistics of securing feedstock deliveries to support the higher run rate which is not -- you know, I don't see that it is very consequential.

MR. STONE: Chad Stone -- so if I have got a plant that is down for economic reasons and the economics change, the plant manager needs feedstock first of all but needs a day notice.

MR. COMLY: Alright thank you.

MR. MORTON: I would say the same thing is true for small producers. We have several that are just kind of slowing down their productions now and the thing we talked about earlier about going to 24/7 operations that's a huge step in capacity for small guys to do at relatively low

cost.

So I mean to get back up to those kind of levels would be pretty easy.

MR. COMLY: Thank you. My final question I am going to read this -- with nearly all major indicia the Commission typically looks it in its analysis of injury showing improvements over the POI such as capacity being up, production is up, capacity utilization is up, shipments are up, financial performance on all in basis that is the BTC plus the independent RINS sales is up as well.

What is the basis for there being present material injury? And then finally in terms of domestic -- I believe someone used the term suffocation, does this ability -- inability of producers to grow more in a growing market satisfy the statutory requirement of a reasonable indication of material injury?

MR. GETLAN: Myles Getlan. Since you are articulating legal standards I guess I will take the lead and have our witnesses you know, follow up. There's every indication that this industry is materially injured and there are a number of factors that you should consider.

What you have heard from our witnesses most importantly is that they are being squeezed. That there are low prices from subject imports and it is taking market share from them and they are not producing -- the industry

as a whole is not producing at the levels that they should be producing which would further reduce their unit costs.

They should be more profitable during this period of time, instead they are less profitable. And it has stifled investment and you know in some cases maybe the expectation of further capital expenditures is less important but in this industry it is crucial.

You heard Miss Steckel talk about the fact that this is a fledgling industry. I mean this is essentially a 10 to 15 year old industry from a commercial scale perspective. There was biodiesel production beforehand but at a commercial level this is a young industry and they build capacity.

And sufficient capacity to supply current demand but there is significant unutilized capacity in the industry now and because of their declining financial results, no matter how you slice it, these companies are not investing.

The record as it is currently developed shows an unbelievable decline in capital expenditures during the period of time and a level of capital expenditures that is minimal -- paltry I think I said this morning.

In order for this industry to be viable in the future it needs to grow with the market. The market is expected to grow and these U.S. producers and those that are not here at the table should be investing in their industry

at a time when market conditions were so favorable.

And instead you are hearing about cancelled and downside investments and that is injury. Weak financial results, lack of investment -- that is more than material injury and it is more than a reasonable indication of it.

So that's sort of the legal answer and I welcome our witnesses to follow up on that.

MR. SOANES: I'll supplement that anecdotally. You know our financial results are audited by one of the big three accounting firms and if you look at our earnings, net profit taking into account everything -- lender's tax credit, RINS sales associated are not independent or otherwise.

Our net profit is lower in '15 than what it was in '14 and in '16 than what it was in '15 and '14 and during that time period we have invested to increase our production with the extra human resources in and improved our systems to capture that incremental capacity in our plant.

So we have increased our production, we have lowered our per-unit cost, but our profits have gone down. And the profits have gone down mainly because our margins have been so heavily reduced -- the result of the significant imports, growth of importing in Indonesia and Argentina and the price dumping and it is just as simple as that.

And then as to our own capital as I mentioned in my previous remarks you know we have a dock that we have secured payments for and we would like to proceed forward to build that but in the uncertain environment that we currently are faced with, that is not capital.

I mean 25 plus million dollars of capital -- that's not capital that my board is going to allow me to spend until there is a clearer picture on where the market is going to come out with regard to at least dumped imports which are taking away market share and leading to declining margins that are frankly unsustainable.

MR. STONE: Chad Stone. In 2012 the RVO from the EPA was 1 billion gallons and since then it has grown to 2 billion gallons in a pretty short period of time and we have exceeded the RVO I think almost every year.

We have proven that we can grow as an industry. REG has been very active in that. So the RVO was set at 2.1 billion next year so we continue to be supported by the EPA with a growing renewable volume obligation that's positive and supported.

Of course we asked for 2.5 billion we think we can do more. But we are glad that they are supporting a continued growing biodiesel market and that's a positive indicator. We say energy prices go through a severe collapse and then rebound and so we are talking about a

period of time where energy prices begin rebounding.

We see feedstock markets going down as well but what we are not seeing are margins, returns -- we are seeing a larger discount on just the fuel component, a discount to diesel that's needing to clear the market.

We are seeing a RIMS price that isn't high enough to provide returns that justify you know, proving to your board that you can invest capital wisely for a good return. Maybe that money should have been used on something else if that is the scorecard you are going to show me after the fact, after investing that money.

Margins compressing, returns decreasing, moving things further because they are being displaced from their natural local markets are things that have caused REG to slow down our investments. We are naturally very long biodiesel. We spend millions of dollars every year just maintaining the fleet of plants that we have.

We spend millions of dollars in improving what we have so we can be more competitive using more feedstocks and to be more efficient. And then we also one by one when conditions are right we announce a little improvement here or an upgrade there, or an acquisition here but when you go back to the Board of Directors with a low return based on money invested that you see in this POI that makes it difficult for reinvestment.

That's why we have not completed the 2 plants in Atlanta and Clovis, New Mexico. We could upgrade those with cash we have, with cash flow. We don't need to raise money for those two but we can't justify it.

The large plants we can't get back financing that's reasonable because of the financial results of the industry as a whole. And we are unique in investing in the industry. I think most people in the industry are hurting. They are hurting so much that they can't even maintain their own plants.

So I think we are unique.

DR. MORTON: This is Bob Morton, I just want to second what these guys have said. It is really a difficult time here and as I have said earlier for small producers being able to expand is the key for how we get going forward.

But we as a company have said that we believe in biodiesel. We believe biodiesel is going to stay here and we want to be part of what's going on. So I think one thing that we haven't really emphasized so much here is that having Argentina biodiesel in the mix is not a bad thing. It's when it comes in at a huge price under what we are doing -- that's what really kills us.

So I think there is plenty of growth in RFS and everything like that but when it comes in at this price it

is just a disaster for American producers.

MR. STONE: And just one thing further on that to Bob's point is we do need imports. We need imports to show the EPA that we can step, change, grow and then build more production domestically and then use imports to tell the EPA we can do more.

We want to partner and do that. We just want to come in at fair prices and not be subsidized and being at the front of the line because it is the most desired product. We want it to be on a fair price on a level playing field, that's the only thing I wanted to emphasize.

MR. COMLY: Well thank you and I appreciate your coming today and all the discussion we had. That was the last question I had, thank you.

MS. HAINES: Well thank you very much. That's the last of the staff questions. We appreciate your traveling all the way here to present your testimony and I guess we will have the closing statements.

MR. BISHOP: This panel is dismissed. Thank you.

(Pause.)

Closing and rebuttal remarks on behalf of Respondents will be given by Edmund Sim of Appleton Luff. Mr. Sim, you have 10 minutes.

CLOSING REMARKS OF EDMUND SIM

MR. SIM: Thank you. And on behalf of the panel

and our witnesses, thank you for the opportunity to explain what appears to be a relatively simple market from the petition. But as you've heard from everyone today, it is a relatively complicated market. And to paraphrase the famous international trade expert, Joyce Kilmer, "Only God can make a tree, or a palm tree." Only God can make a soya plant. But only the U.S. Congress can create a RIN or a biofuel tax credit.

And that's important because normally when we have a product that comes from God like a pig, or wheat, or something we mine out of the ground like steel, the market creates itself. The market, made up of the private sector, buyers and sellers, traders, et cetera, creates itself.

But this industry was fostered in this country by the actions and legislation of the United States Congress and the Environmental Protection Agency. And so it is in that context you have to look at the case.

It is not a steel case. It's not a semiconductor case. It's not, you know, plastic dishes. It's not even prawns. This is its own case. Because the entire market was constructed based on various factors which we have presented, which the Petitioners agree is also considered in the setting of the market.

So in other words, this market resulted from policy decisions by the United States Congress, by the EPA,

in terms of the RIN, the tax credit, the grandfathering, all the buzzwords you've heard today, D4, D6, all comes from the U.S. Congress.

So the decisions of the Congress determine what is being sold. Is it D4? Is it D6? My client's stuff is D6. Their stuff, the Argentine stuff and the U.S. product is D4. That's defined by the plan, by the program.

What is in the price? The price includes the liquid. It includes the RIN. It includes a tax credit. No matter how many ways you slice it, it's all built into the product.

Earlier today Mr. Whitney said that basically biodiesel is a way to deliver RINs. It's just like a cracker is a way to deliver cheese. You don't need a Ritz cracker for the cracker, you want the cheese. Well the RIN is the cheese. You have to think about the whole thing together. That is what is being sold.

And the policy of the United States Congress and the EPA define who is in the market. I want to buy stuff from RINs from people who are reputable. Well, that's based on the value of the RIN itself and the credibility of the RINs being provided by the seller.

That is also implied by the fact that the market for RINless biodiesel is very, very small. You asked that question of the Petitioners' panel and they didn't really

answer that. It's very small.

For example, the tax credit. Indonesia hasn't shipped anything to the United States since late last year because there's no tax credit. We have nothing on the water, nothing even being loaded. Nothing.

So I think the point is that I think after you've heard a proper exploration of what is being sold in this market--i.e., the liquid, the RIN, even the tax credit--I think you have to take everything as a whole. That's applied not just for your financial analysis of the Petitioner, it also applies to your pricing analysis, everything in this case. But try to extract it out is to extract out fundamental value in the product which was created by the U.S. Congress and the EPA.

Now with regard to Mr. Getlan's assertion in response to a question of injury, indicia, all that, I would like to quote from the winter 2017 edition of Biodiesel Magazine. This came out on January 13th, and you can find it online, but I think this is a very good rejoinder to Mr. Getlan that comes from the industry. Quote:

"The U.S. biodiesel sector experienced a revival period in 2016 unlike any other, thanks to favorable market conditions resulting from stabilized renewable fuel standard RFS policy, and a December 2015 passage of the two-year retroactive biodiesel tax credit effective January 1, 2015,

through December 31, 2016. Despite sustained low diesel prices, more biodiesel plant expansions, upgrades, and mergers and acquisitions, M&As, were announced in 2016 than at any time in recent memory, signaling a sound industry future by strategic investors."

That was two months ago. The only difference between this and two months ago is the filing of the Petition. This reflects reality. So all we're asking for in the case in our presentation is that you look at the market, you look at this product as it actually exists, all three components: liquid, RIN, tax credit.

You have to look at the industry as a whole. But you have to understand there are various factors at play that make the--sort of basically we're saying that the industry is not injured. And the problems that they are complaining about are not caused by product from Indonesia and Argentina.

So thank you very much, and we look forward to submitting the post-conference briefs and the answers to your questions.

MS. HAINES: Thank you very much.

MR. BISHOP: Rebuttal and closing remarks on behalf of Petitioner will be given by Myles S. Getlan of Cassidy Levy Kent.

CLOSING REMARKS OF MYLES S. GETLAN

MR. GETLAN: Good afternoon once again. Myles Getlan from Cassidy Levy Kent. At the end of a long day, we appreciate your patience and your questions.

This is no doubt a bit of a complicated industry, one that's maybe more complicated than you're used to, and we don't, frankly, envy you for trying to understand it within just a few weeks here. But really the facts in this case, the facts in the record, and when considered within the framework of the Commission's statutory mandate, is not so complex. And the reality is that imports from Argentina and Indonesia materially injured the domestic industry during the Period of Investigation of 2014 to 2016.

We've tried to unpackage a few things that were discussed today, again trying to get back to basics in terms of what data the staff is collecting and what the Commission needs to consider for purposes of its preliminary determination.

Again, this is a case about biodiesel. There's not much dispute, or there's no dispute in terms of the like-product here. This is all biodiesel imported from Argentina and Indonesia. The like-product is biodiesel produced by U.S. producers. And so that is your domestic industry that you're focusing on.

When we talk about subject imports from Argentina and Indonesia, there's an argument that's going to be made

that was referenced today in terms of cumulation and whether Argentine and Indonesian biodiesel should be cumulated. And indeed they should.

They are interchangeable. They are fungible. They all meet the same ASTM specifications and use for transportation fuel and heating fuel. They all generate one-and-a-half RINs and are eligible for the tax credit. It runs through the same channels of distribution, and they are in the market at the same time when they're in the market.

And so, again as I mentioned earlier, every gallon of biodiesel from Indonesia competed with a gallon of biodiesel from Argentina, and from domestic producers as well.

Conditions of competition here, again you can get tied up into knots when talking about the regulatory regime, the regulatory environment in particular, but again it need not be so complicated.

When we talk about the conditions of competition here, biodiesel is a commodity. Again I reference the ASTM spec. That's how it's sold. That's how it's purchased. Biodiesel sold for transportation fuel and heating oil. Domestic producers imported product. That is, it competes at the same level.

The regulatory environment, renewable fuel standard, tax credits, RINs, again influences demand and

supply and pricing the same for imported and domestic product. We talk about supply, and there was a lot of discussion this morning, and some this afternoon as well.

The U.S. industry is perfectly suited, and certainly was in a position to supply U.S. demand. You have--this is not an issue of whether a single small producer in the West is able to supply Mr. Whitney's huge demand for fuel in Houston. The U.S. industry has a good number of very large, very efficient producers, including in Houston, and our witness here from RBF is but one example.

But the ability to supply with large volumes in key areas, it's not a credible claim that they do not exist. And again, industry data indicating significant unutilized capacity also makes clear that producers were able to supply that demand and distribute it, as well.

So with that, there is no aspect of the industry that the Respondents discussed that would explain the data that you're seeing. The increase in imports is staggering. From a volume effects' perspective, you have imports increasing over 400 percent, 464 percent during the Period of Investigation, and took close to 20 percent market share from U.S. producers. Undisputed and can't be disputed. And so clear volume effects here.

In terms of supply constraints, well there were certainly no supply constraints during the Period of

Investigation, and looking ahead there's no indication that imports will be constrained by feedstock supplies.

When you turn to price effects, what you have in this industry is a clear cost-price squeeze. This is a case with price suppression. The low-price subject imports clearly create a ceiling for U.S. producer prices, and that is what contributes to the declining and fetal margins that the U.S. producers are realizing.

Under-selling. You have robust pricing data, probative data particularly for a preliminary phase investigation. You have collected data on the right products. You have good coverage, and there is no indication that producers and--U.S. producers and importers are reporting on different bases.

It's apples to apples. And so what that record shows is predominant under-selling in a commodity market. And so between under-selling and price suppression, the adverse price effects are palpable. Again, on the under-selling the apples to apples issue, Indonesia made a lot of--or discussed a lot of things in terms of the comparability of prices. Mr. Levy mentioned this afternoon that product three is directly apples to apples, RIN-less sales. And there you have under-selling.

And so this staggering increase in low-priced imports caused injury to this industry. Again, 2016, the

quote that Mr. Sim just quoted, were there favorable indicators? Positive trends? This was a growing market. Demand increased nearly 60 percent over the Period of Investigation.

You can have greater production, greater sales. There might have been a slight increase in employment. But those trends, those gains by domestic producers were nowhere near what you would expect in a market that grew close to 60 percent.

And so there --- and the market share that was taken by importers at the expense of U.S. producers resulted in lower volumes than they should have had, and low margins. And the fact that this industry in an environment where feedstock costs were declining, costs were declining and gross margins were negative in 2016. I mean how is that not injury?

You have weak financial results that time and again, not just from our witnesses but the record shows a lack of investment, an inability or an unwillingness to invest further in their businesses, invest in the future of this industry because of low prices and low-priced imports.

That is injury. I never actually heard the Respondents say that this was one of those unique simple cases where a negative prelim was in order. So that's striking. And that's because, frankly, the record that's

been developed thus far in the preliminary phase is abundantly clear: Subject imports from Argentina and Indonesia caused material injury to the U.S. industry and threaten continued injury.

And we look forward to elaborating on those themes in our post-conference brief. And again, we appreciate your time today and thank you for your time.

MS. HAINES: Thank you very much. On behalf of the Commission and the staff, I would like to thank the witnesses who came here today, as well as counsel for helping us gain a better understanding of the product and the conditions of competition in the biodiesel industry.

Before concluding, please let me mention a few dates to keep in mind. The deadline for submission of corrections to the transcript and for submission of post-conference briefs is Tuesday, April 18th.

If briefs contain business proprietary information, a public version is due on Wednesday, April 19th.

The Commission has tentatively scheduled its vote on these investigations for Friday, May 5th, and it will report its determinations to the Secretary of the Department of Commerce on Monday, May 8th.

Commissioners' opinions will be issued on Monday, May 15th.

Thank you all very much for coming. The conference is adjourned.

(Whereupon the hearing was adjourned at 4:22 p.m.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Biodiesel from Argentina and Indonesia

INVESTIGATION NOS.: 701-TA-571-572 and 731-TA-1347-1348

HEARING DATE: 4-13-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 4-13-17

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Christopher Weiskircher
Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Gaynell Catherine
Court Reporter