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**Written Testimony of Jennifer Case
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Submitted to the United States House of Representatives
Committee on Energy and Commerce
Subcommittee on Oversight and Investigations
“RIN Fraud: EPA’s Efforts to Ensure Market Integrity in the Renewable Fuels Program.”
July 11, 2012**

Chairman Stearns, Ranking Member DeGette and Members of the Committee, I appreciate the opportunity to testify on behalf of New Leaf Biofuel. I am Jennifer Case, Chief Executive Officer of a small biodiesel company located in San Diego, California.

Summary of Major Points:

- The Renewable Fuel Standard is a good policy that is working to increase the use of biomass-based fuels like biodiesel, and is creating good, green jobs in communities across the country.
- The fraud in the RIN market has dealt a devastating blow to small biodiesel producers, and the industry in general.
- The private sector has reacted to the crisis by creating various RIN validating programs meant to restore confidence in the RIN market.
- Small producers need the EPA’s help to ensure Obligated Parties will be willing to purchase small producer RINS once the RINS have been validated.

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New Leaf Biofuel was formed by myself and 4 other individuals in March of 2006. While raising capital, we began securing feedstock by contracting with local restaurants, hospitals, casinos and other industrial kitchens for their cooking oil. In 2007, the California Air Resources awarded the Company a grant to build the biodiesel manufacturing plant, funds that were matched by a loan from the City of San Diego. New Leaf sold its first batch of fuel to the local alternative fuel station Pearson Fuels in November of 2008.

Today, we collect cooking oil from about 1500 restaurants in the San Diego area, and we employ 31 hardworking individuals. Some of the users of New Leaf's biodiesel include the Cities of San Diego, Chula Vista and Oceanside, as well as the Allied Waste Trash fleet, the Enterprise Airport Shuttles and dozens of others in California.

Since July 1, 2010, when the RFS2 program began in earnest for biodiesel and other advanced biofuels, our business has had quite a roller coaster ride. Generally, we think Congress did a good job in creating a consistent federal policy that adds cleaner burning, domestic renewable fuels to the petroleum diesel fuels market. The Renewable Fuel Standard provided our new industry the ability to price biofuels competitively with traditional fuels, and gave Obligated Parties a choice of how they would comply – either they buy wet gallons, or they purchase Renewable Identification Numbers (RINS). New Leaf Biofuel would “generate” the RIN and charge our distributors a premium for the RIN-attached biodiesel, and thereafter the distributor would monetize the RIN and sell it up the chain to obligated parties. 2011 was a great year for small biodiesel producers like New Leaf. We were sold out of biodiesel for the entire year, we nearly tripled our workforce, and we began a plan to expand production from 1.5 million to 5 million gallons per year.

Everything changed beginning around November of 2011 when the Environmental Protection Agency (EPA) announced it was bringing enforcement actions against people who fraudulently generated invalid RINS. Overnight, our customers were unable to sell the RINS we attached to our fuel, which meant New Leaf and other small producers lost the ability to sell biodiesel for a competitive price. Nearly 8 months later, New Leaf is still struggling to obtain a fair value for the RINS we generate. And although our plant is currently under construction to increase capacity, we have actually had to slow down production due to sluggish sales.

We are not here to specifically criticize the EPA. We understand the RFS is a tough program to regulate. As a small producer located 3,000 miles from Washington, D.C., and who doesn't have direct relationships with Obligated Parties, the most important thing that we need from the EPA is help in restoring confidence to the program so that Obligated Parties will, once again, purchase the RINS generated by small producers. If that doesn't happen, the fate of small producers is questionable at best.

Once the fraud was announced, the distributors who purchase New Leaf's fuel were unable to sell New Leaf's RINS. Neither the brokers, nor the obligated parties felt comfortable owning

RINS of any small producer. Obligated Parties decided that the best way to avoid owning fraudulent RINS was to purchase only from the large, well known producers—Companies that could and would be required to provide indemnity should the RINS turn out to be invalid.

New Leaf, for example, produces about 2 million gallons of biodiesel and generates 3 million RINS per year. At \$1.50 a piece, these RINS are worth 4.5 million dollars in the marketplace. As a small biodiesel producer, Obligated Parties know it would be virtually impossible for us to replace those RINS in the event they were found to be fraudulent by the EPA.

As more rumors of fraud have spread, we have watched the RIN values fall to nearly half the value of this time last year. In the past couple of months, New Leaf has been unable to price biodiesel cheaper than petro-diesel, forcing many of our fleet customers to abandon biodiesel in favor of cheaper fossil fuel.

In February of this year, our industry met at its annual conference and the “fraudulent RIN crisis” was the primary topic of discussion. We formed a task force of industry leaders including obligated parties, large and small biodiesel producers, fuel suppliers and other stakeholders. Drawing on the experience of all involved, we devised both short term and long term solutions to get the markets moving again. Small producers like New Leaf have forged new relationships, some with brokers and traders willing to validate RINS using their own balance sheets to indemnify Obligated Parties. Some small producers have worked directly with Obligated Parties to validate their RINS—something that has led some small producers to sell biodiesel directly to Obligated Parties. In all cases, small biodiesel plants are working diligently to ensure full compliance with the RFS Program and have opened their plants and their books for quarterly RIN audits, all at their own expense. While these efforts have allowed some small producer biodiesel RINS to trade in the marketplace again, they are being sold for significant discounts to the already depressed market.

We believe that the private sector has done a good job putting in place a number of quality assurance plans that will establish the validity of New Leaf’s and other small producers RINS, albeit at the cost of the small producers. The industry is now performing the due diligence that could have avoided this situation had it been performed all along. Although it is expensive, we believe it is the first step in getting small producer RINS back into the marketplace. My biggest concern is just that – That the small producers will spend money on internal audits and other programs to establish the validity of our RINS—And the Obligated Parties still won’t buy them from us. It may be awhile until I know the answer to this question.

The next few months will be crucial for small biodiesel producers. In order for us to survive, we need assurances that Obligated Parties will purchase our RINS. The fuels marketplace is wildly unpredictable with daily price fluctuations in crude oil and raw materials, not to mention State and Federal incentives that come and go year to year. The Renewable Fuel Standard was meant to provide the renewable fuels industry with a long-term plan—a reason to invest in these industries and create new jobs. Without the ability to sell RINS, our businesses will continue to lose cash flow and many of us will be forced to shut our doors.

The question we ask ourselves is this, “what can the EPA do to help the success of the New Leaf Biofuel over the short term (the next few months).” We doubt EPA can require Obligated Parties to purchase RINS from specific companies. However, we believe it would be useful if EPA did the following:

- Finalize every current fraud case from 2011 and promptly provide the marketplace with information on all fraudulent RINs actually in the marketplace. The sooner that all of the fraud is exposed, the better.
- Update the regulations in a way that creates a process other than a “notice of violation” (NOV) so that Obligated Parties and others in the chain of RIN ownership can address RIN replacement in a constructive way.

I hope you found my testimony helpful and I appreciated the opportunity to provide you with my insights. I look forward to working with this committee on any questions or comments you may have. Thank you.