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**Written Testimony of Joe Jobe
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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 thank you for the opportunity to testify today on behalf of the National Biodiesel Board (NBB) regarding the Renewable Fuel Standard, RIN Integrity and the efforts of the NBB, the petroleum sector and EPA to ensure market integrity.

We have appreciated the opportunity to meet with your staffs and provide information on industry issues relating to RIN integrity. We are pleased to see that Congress is interested in the success of the Renewable Fuel Standard (RFS), which as you all know was created just seven years ago under the Bush Administration with overwhelming bipartisan support here in Congress.

Today you would like us to focus our discussion on improving the Environmental Protection Agency's enforcement of Renewable Identification Number (RIN) trading. Make no mistake about it: We take these issues very seriously. RIN fraud has caused significant disruptions in the distribution and marketing of biofuels, and we are committed to preventing it in the future.

By way of background, NBB is the national trade association representing the biodiesel industry as the coordinating body for research and development in the U.S. NBB's membership is made up of biodiesel producers; state, national and international feedstock organizations; fuel marketers and distributors; and technology providers.

Biodiesel is a renewable, low-carbon diesel replacement fuel made from an increasingly diverse mix of feedstocks including agricultural oils, recycled cooking oil, and animal fats. It is the first and currently the only EPA-designated Advanced Biofuel that is produced on a commercial scale across the country. It meets a strict ASTM fuel specification and is used in existing diesel engines without modification. In 2011, our industry produced nearly 1.1 billion gallons of biodiesel in plants across the country, from California to Florida, and blended that fuel into the 55 billion gallon petroleum diesel market.

Nobody is more interested in eliminating bad actors from the RFS program than we are. We are also sincere in working with our customers, the obligated parties, on meeting the compliance requirements of the program. Nobody wins when fraud is present in the marketplace.

We are not interested in seeing obligated parties being fined or penalized for unwittingly using RINs they thought were valid. By the same token, we believe obligated parties should be required to exercise an appropriate level of due diligence before they submit RINs for compliance.

Additionally, we are committed to ensuring that actual volumes of biofuels are produced and sold in the U.S. as envisioned by Congress. Last year, the biodiesel industry exceeded those targets, and we hope to continue that success in the coming years.

As the regulation is written today, we believe the EPA has a difficult job when enforcing against bad actors. Given the experience of the Members of this Committee, we know you understand the process of enforcement is difficult – and unfortunately -- it often can slow or impede the marketplace.

Overall, we think the EPA has done an adequate job enforcing the regulation, and we encourage the EPA to continue enforcement actions so that the handful of bad actors who have disrupted the biodiesel marketplace are removed from the system and punished.

The RFS is still a relatively new program and strong enforcement will create disincentives for criminals to try to manipulate the system. Already we know the result of one criminal action, and if the other current RIN allegations are true, these individuals and companies have committed crimes and we urge the federal government to prosecute them to the fullest extent of the law.

Perspective is important, and we must remember that these are isolated cases and that the vast majority of biofuel producers are honest companies producing quality fuels for the U.S. marketplace. What we have seen is no different from fraud in other financial markets where criminals have come in and found a way to take advantage of the system. The only good news with these cases is that the scam has now come to light and will be very difficult to repeat going forward.

In fact, the RIN Fraud we're discussing today is from previous years, and the private sector is already working with EPA to address it:

Current RIN Fraud issues took place in 2009, 2010 and 2011. EPA enforcement began in late 2011. In 2012, most obligated parties do not believe they have acquired invalid RINs, because they have only purchased RINs from biofuel producers who are risk averse. In 2012, obligated parties have done what they should have been doing in 2009, 2010 and 2011. They have been inspecting and requiring audits of the biofuel producers from which they purchase biodiesel and RINs.

In essence, the Wild West of buying and selling RINs from market participants you don't know has ended, the wrongdoers are being rooted out, and everyone now knows that the deals that are too good to be true are in fact too good to be true.

Let me explain in numbers (chart attached):

- In the second half of 2010, 7.1 billion RINs were generated, of which EPA has indicated approximately 32 million – less than ½ of 1 percent – should not be used for compliance purposes.
- In 2011, 15.4 billion RINs were generated by biofuel producers, of which the EPA has indicated approximately 108 million – less than 1 percent – should not be used for compliance purposes. To the extent there may still be some cases EPA continues to review and this number increases, it will largely be contained to RINs generated in 2011. Further, as EPA has noted, these numbers have not undermined the ability of parties to meet the volume requirements of the statute. In 2011 a total of 1.895 billion RINs that could be used to satisfy the advanced biofuel standard were generated (1.675 billion biomass based diesel RINs and 0.220 advanced biofuel RINs), which significantly exceeds the required total of 1.35 billion advanced biofuel RINs for 2011.
- In 2012, we anticipate nearly an identical number of RINs will be generated as in 2011, and thanks to better due diligence that has been put in place by the private sector and EPA's continued enforcement efforts, we anticipate nearly zero fraudulent RINs being generated.

The bigger picture is that the Renewable Fuel Standard is working just as Congress intended to diversify our energy supplies and create American jobs – as demonstrated last year when the biodiesel industry produced a record of nearly 1.1 billion gallons of fuel and supported more than 39,000 jobs.

Looking forward, we believe the EPA's strong enforcement along with the private sector's ongoing RIN Integrity efforts will ensure that this kind of fraudulent activity doesn't happen in the future.

In addition to the issues listed above, the private sector has great responsibility in discovering fraudulent RINs. NBB's RIN Integrity Task Force helped support the development and deployment of a comprehensive auditing and real-time monitoring program that is being launched now to give the market restored confidence in any biodiesel producer that is participating in the program. This third-party, private-sector response has come together with impressive speed and innovation, and we are confident that it will be effective in preventing improper transactions and restoring liquidity to the RIN markets.

In March we convened NBB's RIN Integrity Task Force:

- NBB's RIN Integrity Task Force, which includes a broad cross-section of stakeholders, has been advising on the development of a comprehensive auditing and real-time monitoring program that is now being deployed. We're confident that this third-party verification program, once fully deployed, will be effective in protecting the system from bad actors and giving the market confidence.

- Through the work of the task force, the private sector has launched the Genscape RIN Integrity Network™ dashboard. The National Biodiesel Board's RIN Integrity Task Force has worked diligently with the petroleum industry to provide a solution to the uncertainties in the RIN market.
- Genscape's RIN Integrity Network™ dashboard allows obligated parties who subscribe to the service to do their due diligence with real-time information on participating biodiesel producers through a user-friendly, online information service. This "dashboard" allows subscribing parties to inexpensively and easily tell whether an individual biodiesel producer's RINs have been verified through the Genscape system.
- Currently there are more than 70 registered biodiesel producers and 15 obligated parties who have signed up to discuss this service with Genscape.
- There are other private-sector groups working on auditing and other programs that would assist obligated parties on ensuring RIN Integrity.

At a recent meeting your staff inquired as to NBB's input regarding how EPA could address RIN Integrity issues. We provide the following insights:

1. At this stage of the discussion it is difficult to make concrete determinations as to what additional tools could be put in place to eliminate fraudulent RINs. Nevertheless, we are working with both the EPA and obligated parties through the American Petroleum Institute (API) and the American Fuels and Petrochemical Manufacturers (AFPM) to consider whether additional regulatory modifications can better focus enforcement efforts on the bad actors, while ensuring that the goals of the program are met. The RFS is a complex regulatory program, and review of additional means to address RIN Integrity should be done through the regulatory process, and we encourage EPA to seek public input on how the regulatory structure could be improved to address these issues. We don't yet have an "agreed to" solution, but we are working hard to reach consensus.
2. Information is a key component to the fuels marketplace, and further discussions as to when and how EPA should communicate potential violations are necessary.
3. In 2011, enforcement procedures and Clean Air Act "Notices of Violation" (NOVs) were new to the biofuels industry. The lack of understanding by industry of the ramifications of the NOV's may have caused hardship to many in the fuels marketplace when the first NOV's were announced. More information about the NOV process would have allowed those in the fuels marketplace to react with greater certainty.
4. Information related to day-to-day RIN generation and usage is important to the fuels marketplace. The EPA has information on RINs generated, purchased and used for compliance, and further discussion is needed regarding the amount of information provided to RIN generators and purchasers so that the industry could assist in self-policing and in rooting out fraudulent RINs before they are ever purchased.

To conclude, I want to repeat that we take RIN fraud very seriously and are committed to eradicating it. We believe EPA's enforcement actions will eliminate the bad actors who are taking advantage of the system. Further we anticipate the private-sector solutions being implemented now, such as Genscape's RIN Integrity Network, along with the enhanced due diligence by the fuels marketplace, which was not being done when these fraud cases happened, will prevent this kind of fraudulent activity in the future.

Finally, as we move forward we anticipate continuing to work with our colleagues from the petroleum sector and EPA on updating the regulation to allow regulated parties additional options when faced with addressing fraudulent RINs.

We appreciate the opportunity to provide you with our insights and look forward to working with this committee on any questions or comments you may have.

Attachment 1

Bad Actors and The RFS2

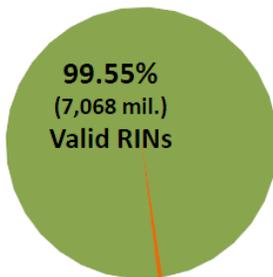
EPA Enforcement IS Eliminating Bad Actors

Perspective is important, and it is important to remember that these are isolated cases and the vast majority of biofuel producers are honest companies producing quality fuels for the U.S. marketplace.

In 2012, we anticipate nearly as many RINs will be generated as in 2011, with nearly zero fraudulent RINs being generated, thanks to better due diligence in the private sector.

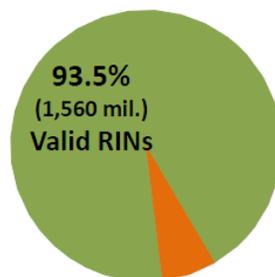
In 2011, the biodiesel industry produced a record amount—more than 1 billion gallons, supporting more than 39,000 jobs.

Second Half of 2010 Total RINs



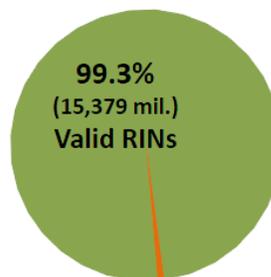
0.45%
(32 mil.)
Fraudulent RINs

Total 2011 "Biomass-Based Diesel" RINs



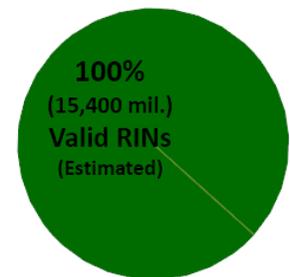
6.5%
(108 mil.)
Fraudulent RINs

Total 2011 RINs



.69%
(108 mil.)
Fraudulent RINs

Anticipated 2012 RINs



0%
(0)
Fraudulent RINs
(Estimated)



Attachment 2

Background on the Development of Genscape's RIN Integrity Network™

NBB, www.biodiesel.org, is the national nonprofit trade association representing the biodiesel industry. It serves as the central coordinating body for biodiesel research, development and education. It is organized exclusively to promote the common business interests of those parties seeking to advance the use of biodiesel as a fuel or fuel additive that meets ASTM standards.

America's biodiesel industry relies in part on strong government policy, mostly provided by the federal and state governments. Beginning in 2005 a \$1-per-gallon biodiesel blender's tax credit greatly stimulated the biodiesel market. The credit expired December 31, 2009. Since then, although the tax credit was briefly reinstated, it again expired on December 31, 2011.

In the last two years, the tax credit has been replaced by RFS2, the regulatory mechanism for implementing the renewable fuels requirements of The Energy Independence and Security Act (EISA) of 2007. EISA requires the EPA to require statutory minimum targets for biodiesel consumption by Obligated Parties through future years. The EPA established the minimum biodiesel purchase targets of 800 million gallons for 2011 and 1 billion gallons for 2012.

The RFS2 program requires each of the major oil companies, as Obligated Parties under EISA, to purchase its assigned allocation of the required total gallons each calendar year. This requirement is enforced through the use of the RIN (Renewable Identification Number) numbering system. A RIN is credit that is created when biodiesel is produced. 1.5 RINs are created with each one gallon of biodiesel. A RIN has 38 digits which represent specifics about the relating gallon such as the biodiesel producer, plant location, date, feedstock, etc... After a gallon of biodiesel is blended, the RINs can be separated and sold separately from the gallon. Obligated parties can either buy wet gallons with RINs attached, or buy detached RINs or a combination. On February 28 of each calendar year, each Obligated Party must demonstrate to the EPA that it has the required number of RINs.

In 2009 and 2010, as the RFS2 program was implemented, the value of the RIN started as low as 20 to 30 cents per gallon. As both the biodiesel industry and the oil companies saw that the EPA was going to enforce the RFS2-mandated volumes, the value of the RIN increased to its more mature value today of about \$1.15 per RIN or \$1.725 per wet gallon equivalent ($\$1.15 \times 1.5$).

During the spring and summer of 2011, rumors of suspicious activities in the RIN markets began to surface. Concerns were exacerbated by production volume report differences between EPA and Census Bureau numbers raising the concern that fraud could be occurring. NBB Governing Board members and other members expressed an interest for NBB to address the problem. NBB encouraged the EPA to enforce the law by fully investigating and prosecuting any violators. NBB staff worked with the EPA's Enforcement Division to build a section of NBB's web site where information could be confidentially reported regarding potential wrongdoing in the RIN markets. NBB staff had a number of meetings with the EPA to investigate means of cooperating and strengthening efforts for RIN fraud detection and enforcement.

NBB explored the idea of creating a RIN quality assurance program as part of NBB's existing fuel quality assurance program, BQ-9000. Given the significant length of time estimated to develop a program as part of BQ-9000, it was determined that this option was not deployable in the time frame necessary. It was determined that a private sector solution or solutions would be necessary.

In late 2011, the EPA announced enforcement actions on a Maryland-based biodiesel

producer accused of selling fraudulent RINs. Subsequently, a Texas-based company was accused of fraud in December, 2011. EPA audits then resulted in more than 30 different Obligated Parties receiving notices of violations from EPA because of their purchase of fraudulent RINs. Criminal prosecution of the sellers of fraudulent RINs followed, with the first defendant, Rodney Hailey, convicted on 32 counts of fraud on June 25, 2012

As a result of the 2011 fraudulent RIN revelations, biodiesel producer members of NBB called upon the organization to take the lead in finding ways to restore RIN integrity and RIN liquidity to the markets. Small producers, especially, complained loudly that they had lost their markets because large oil companies (Obligated Parties under EISA) would not buy from them without some assurance that they did not represent fraudulent counterfeiters like the Maryland and Texas operations referred to above.

In the course of considering what NBB could do about this industry-wide problem, NBB leadership discussed the issue with a diverse array of stakeholders.

In September 2011, NBB was approached by a company who was developing RIN integrity audit/verification software. This company wanted NBB's input in the development of their software in order to better meet our member's needs. In late 2012, the software company brought on a development partner called Genscape. Genscape is one of the largest real-time monitoring service providers in the US, with a specialization in the energy sector. Thus, during December 2011 through February 2012, NBB engaged in discussions with executives of Genscape on the development, improvement and promotion of the RIN integrity program. Prior to December 2011, there were no publicly announced private sector RIN Integrity programs.

Simultaneous to the discussions with Genscape, NBB staff worked with an insurance broker to research the possibility of an insurance product that would enable a biodiesel producer to guarantee his RINs to potential purchasers. It was hoped that audit/monitoring standards could be adopted by the insurance company as its underwriting standard, thus enabling it to sell an affordable RIN-guaranteeing insurance product to biodiesel producers. These discussions commenced in late 2011 and terminated in March 2012 when NBB concluded that this option was price prohibitive.

Nevertheless as 2012 began, many Obligated Parties continued to refuse to buy RINs that were generated by smaller producers and producers less known to them. In January 2012, NBB formed its RIN Integrity Advisory Task Force, led by the chairman of the NBB governing board and co-chaired by a representative of a major oil company. This 10-member task force includes representatives from major oil companies, oil marketers, biodiesel producers, biodiesel blenders, biodiesel traders and included guest participation by EPA. The task force was charged with developing solutions to ensure the elimination of RIN fraud. Its charge states that "NBB anticipates developing or working with a service provider to develop such a program." At its annual biodiesel conference in Orlando, NBB leadership announced the formation of the RIN Integrity Advisory Task Force. The Task Force met weekly for approximately 3 months. The task force reviewed detailed elements of the Genscape program and provided input into the program. Genscape accommodated all of the task force's recommendations.

Simultaneously, other auditing companies began to develop and offer their own RIN integrity/audit programs. Among these are that are currently known to us include:

Lee Enterprises Consulting, Inc.
Genuine Energy Technologies
RINSTAR
Weaver, LLP
Eco-Engineers
Lyddy Martin Company Risk Management

Since then, Eco-Engineers and Lee Enterprises have entered into arrangements to provide contract services for Genscape. In addition, it appears that several large oil companies have been working on their own initiative to assure themselves of the integrity of the RINs they are purchasing from medium-sized and smaller producers.