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Jan. 30, 2015

VIA EMAIL

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Room 3000
Washington, DC 20460

Dear Administrator McCarthy:

I am writing this letter on behalf of the National Biodiesel Board as a member of the Governing Board. As you know, we are the trade association representing the biodiesel and renewable hydrocarbon diesel industry spanning the entire Biomass-Based Diesel category of the Renewable Fuel Standard. Biomass-Based Diesel is the first and currently the only fully commercialized, nationwide, domestic fuel that qualifies as an Advanced Biofuel under the Renewable Fuel Standard.

You are well aware of our urgent concerns regarding the ongoing delays in finalizing Renewable Fuel Standard volumes for Biomass-Based Diesel. However, recent actions from the EPA and comments from you and other Administration officials regarding the RFS have generated great concern in the U.S. biodiesel community that you may not fully recognize the significant damage that the uncertainty surrounding this rule has caused for our industry and the thousands of employees it represents. Late last year, for example, you were quoted as saying, *"While I would have preferred to have this rule done earlier, it hasn't slowed down that industry that I can see."*

Additionally, while our industry was already in distress, the actions of your agency this week to lower the RFS sustainability standards for subsidized Argentinian biodiesel was in the view of our members an incredibly disappointing development. Given the fact that your agency was required by law to have 2015 volumes finalized over a year ago, but have been unable to complete even 2014 volumes even though those volumes are now known, it is shocking that the EPA would make the lowering of sustainability standards of highly subsidized foreign fuel a priority. We urge you to strongly reconsider this decision.

Your statement suggesting that the delay in the 2014 rule did not cause significant harm compels me to tell my personal story. Prior to coming to the biodiesel industry I had founded a mobile medical diagnostic company and grew it into the second largest such company in the country. I had been a successful CPA and a successful CEO, and I had not failed at any of my previous pursuits. When I learned about biodiesel, I loved everything about the product and the benefits that it brought to the country. When I learned about the RFS as a meaningful policy to reduce carbon and diversify the transportation

fuel supply, I decided to answer the call. I sold my medical company and invested all of my considerable resources in a biodiesel plant in Pennsylvania. But the uncertainty and delayed implementation of the RFS program put my business in trouble. In 2013 I was forced into Chapter 11 reorganization protection. I had attracted a number of new investors to help me reorganize and come out of Chapter 11. However, when the leaked draft 2014 rule surfaced later that year, my investment partners immediately put their plans on hold. When the final rule continued to be delayed throughout 2014 with no resolution my prospects of reorganization were killed. My business was liquidated and I lost everything. My life savings, my retirement, my daughters' college funds, everything but my house, which now has two mortgages on it representing a huge debt. And it was not just my family that was harmed. At the height of operations, I employed 30 people, about half of whom were veterans of Iraq and Afghanistan that I had deliberately recruited. All of this damage and ruin could have been avoided had the law simply been implemented as Congress intended and as the statute requires.

Having just returned from our industry's annual conference, I can tell you that my story is not unique. There are many small business owners like me who lost or are in danger of losing their businesses due to the lack of implementation of this law. We invested our lifesavings, not on some risky speculative scheme, but on a federal statute that is required to be complied with under penalty of law. Individuals and companies have been fined for not complying with aspects of this law, including deadlines. Yet the agency responsible for implementing and enforcing the law has not complied with the law. And now to add insult to injury, your agency has put a higher priority on a discretionary, non-urgent decision to reduce sustainability standards on subsidy-laden foreign product at the expense of the already distressed domestic industry. And EPA took this unilateral action disbelieving our many statements about the harmful impact it will almost certainly have on the domestic biodiesel industry. EPA also took this action without notice or opportunity for public comment. Based on years of statements by you and President Obama, we all believed we had an ally in this Administration. But we have been stunned and frustrated by the Administration's inaction and perceived disregard for biodiesel.

The National Biodiesel Board and I are requesting a meeting with you to discuss these dire concerns. We are requesting that you reconsider your decision about Argentinian product, and we are urgently requesting a finalized 2014 rule which sets biomass-based diesel at actual production of 1.75 billion gallons and total advanced biofuel at the statutory 3.75 billion gallon level.

Your November 2014 announcement of another delay of the 2014 RVO rule stated that it is your goal to finalize the 2014, 2015, and 2016 volumes all in calendar year 2015. We want to discuss ways that we can help you meet that goal. It is important to the survival of the RFS and therefore the survival of our industry that the Biomass-Based Diesel category and total Advanced Biofuel category be predictably and sustainably grown over time.

Best Regards,

Ben Wootton
National Biodiesel Board
Governing Board Member

CC:

Secretary Tom Vilsack - USDA

Administrator Howard Shelanski – OMB/OIRA

Assistant Administrator Janet McCabe - EPA

John Podesta – White House

Dan Utech – White House Domestic Policy Council