

STATEMENT OF PAUL SOANES,  
PRESIDENT AND CEO OF RENEWABLE BIOFUELS, INC.  
BEFORE THE  
SUBCOMMITTEE ON ENERGY, NATURAL RESOURCES AND INFRASTRUCTURE  
COMMITTEE ON FINANCE  
UNITED STATES SENATE  
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Mr. Chairman, my name is Paul Soanes, and I am the President and CEO of Renewable Biofuels, Inc., headquartered in Houston, Texas. I very much appreciate the opportunity to appear before the Committee today to discuss the impact of clean energy tax incentives on the domestic biodiesel industry.

I want to thank you, Mr. Chairman, for your ongoing leadership on renewable fuels issues. You have been instrumental in driving the federal policies designed to incentivize clean fuels and a sustainable future. I also want to thank you, Senator Cornyn, for joining with Senator Bingaman to request this hearing. Texas has more biodiesel production capacity than any other state, and I want to thank you both for your past support for the biodiesel tax credit.

RBF Port Neches LLC (RBF) operates the largest biodiesel production facility in North America. The plant is a BQ9000 accredited facility with a nameplate processing capacity of 180 million gallons per annum. We have invested over \$200 million in state-of-the-art refining technology at this facility. We have and continue to process a variety of feedstocks in the production of biodiesel.

This year has seen unprecedented growth in biodiesel production in the United States, including at our facility. In 2009 and 2010, RFB produced approximately 12 million gallons and 9 million gallons of biodiesel respectively. This year, we estimate RFB's annual production will exceed 62 million gallons – a seven-fold increase in just one year.

In my view, this unprecedented growth can be attributed largely to two key federal policies. One is the Renewable Fuel Standard (RFS2), which specifies the volumetric requirements of biomass-based diesel that must be used each year by obligated parties, which are companies that have an obligation to purchase a specified amount of biodiesel for blending with traditional diesel. The other key policy decision was Congress' extension in December 2010 of the blender's tax credit for biodiesel for calendar year 2011 as well as retroactively for 2010. This credit had expired at the end of 2009.

Calendar year 2011 is the first year that both of these federal incentives have been in place concurrently, and the effects are undeniable and quantifiable. Demand for biodiesel in the U.S. is at an all time high. As a result, monthly production of biodiesel in the United States has risen from about 37 million gallons in January 2011 to almost 119 million gallons in October 2011, according to the Environmental Protection Agency (EPA). Although the year is not over, 2011 has already set a new record for annual biodiesel production in the United States with 802 million gallons produced so far.

Looking ahead, the volumetric requirement under the RFS2 for 2012 is set at 1 billion gallons of biodiesel, and the proposed volume for 2013 is 1.28 billion gallons. The industry is prepared to meet and exceed these levels of production, as there is an estimated annual production capacity in excess of 1.8 billion gallons within the domestic industry.

Although the biodiesel mandate was enacted as a provision of the Energy Independence and Security Act of 2007, the final rule for the RFS2 program was not published until March 26, 2010. Until the rule was finalized, obligated parties were not required to purchase biodiesel. Even with the 2010 mandated volumes, biodiesel demand was almost nonexistent as a result of the pricing uncertainty created by the expiration of the tax credit in December 2009. Even though the tax credit was made retroactive, the damage had been done.

The results of the uncertainty created by the lapse in the tax credit were severe. The biodiesel industry's 2011 production figures stand in stark contrast to the production levels over the past several years. In 2009, when the tax credit was in place but the RFS2 was not, biodiesel production was 506 million gallons. With the tax credit expired for most of 2010, annual production dropped to 309 million gallons, a forty percent drop from 2009 and less than half of the volume produced so far this year. According to the National Biodiesel Board, last year's steep drop in production levels resulted in the loss of nearly 8,900 jobs and a drop in household income of \$485 million. This year's increased production is supporting more than 31,000 jobs, and will generate at least \$3 billion in gross domestic product and \$628 million in federal, state and local tax revenues, according to a study conducted by Cardno-Entrix.

At RBF, our business was also negatively affected by the lapse of the tax credit for much of 2010. Our annual production in 2010 was five percent of our nameplate capacity. This was largely because uncertainty about the tax credit disincentivized blenders from buying our product for calendar year 2010. There was too much price uncertainty for biodiesel when the tax credit lapsed. The profit margin for producers is very small, so a \$1 per-gallon tax credit makes a substantial difference for both producers and blenders in the overall price of a gallon of bio-

diesel. Given the infancy of the industry, participants did not have sufficient capital to take the risk associated with the potential application of a retroactive granting of the tax credit.

Like the rest of the industry, RBF has seen a tremendous increase in demand for its product during 2011. We are running our facility harder than ever, as evidenced by the production levels I cited earlier. As a result, RBF has significantly increased its headcount, including hiring a number of veterans and has invested additional capital in our facility to further enhance our production capability.

Some policymakers have questioned the value of the tax credit given the RFS2 mandates. However, uncertainty about the tax credit decimated the domestic biodiesel industry even after the RFS2 rule was finalized. This is an unintended consequence of the operative provisions of the RFS2. As a matter of illustration, compliance under the RFS2 is done on an annual basis, with obligated parties not having to demonstrate to the EPA that they have met their obligations until February of the following year. Because compliance isn't measured until February of the following year, obligated parties may delay their purchases of biodiesel in the current year until there is certainty with regard to the tax credit and thus pricing certainty. By no means will obligated parties ignore compliance, but they will delay purchases until there is a clear direction from Congress on extension of the tax credit, which will create severe price, volume and market volatility, and will negatively impact domestic production capability. Secondly, the RFS2 program allows obligated parties to defer some of their volumetric requirements to the following calendar year, which can reduce the demand in the current year.

As you know, Mr. Chairman, a RIN is generated when an eligible gallon of biofuel is produced. Inherent in the pricing calculation of the gallon of biodiesel is the value of the RIN. Many industry participants and even third parties believe the value of the tax credit will be made

up in the pricing of the RIN, which is a liquid instrument. We don't disagree with this theory on its face; however, the market isn't deep enough nor mature enough to react to immediate fluctuations such as the loss of the tax credit or the uncertainty created by the potential retroactive application of the tax credit.

Having both the tax credit and the RFS2 program in place for all of 2011 has resulted in dramatic, recognized improvements in the current year and the future outlook for domestic biodiesel producers. This year has shown that the RFS2 program has provided market certainty, while the tax credit has provided pricing certainty for market participants. But stable, long-term federal incentives are necessary for this industry to continue to grow, and for investors to continue to provide equity and debt capital that will be needed for commercialization of the next generation of advanced biofuels. Single year extensions of the blender's tax credit will not provide the certainty needed to access both working capital and direct future investments necessary to further growth of the biofuels industry and reduce our dependence on foreign oil.

For decades, the federal government has used tax policy to achieve certain societal goals, such as home ownership, research and development, and securing the diverse sources of energy needed to maintain our economy. The tax credit to incentivize the domestic production of biodiesel is an important tax incentive designed to achieve important national goals.

Qualifying biodiesel is good for the United States: it has lower life-cycle greenhouse gas emissions and every gallon produced displaces a gallon of traditional diesel. This helps reduce our dependence on foreign sources of petroleum, many of which are national oil companies controlled by regimes whose interests do not align with U.S. national security interests.

It would be a setback to the gains our industry has made to have yet another lapse in the tax credit. Uncertainty over the extension of the tax credit and the price of biodiesel will drive

purchasers to the sidelines once again, significantly curtailing domestic market demand and production capability, availability of working capital, investor confidence and ultimately putting at risk the tremendous production and jobs gains of 2011.

I founded RBF because I believed that the 2007 Energy Independence and Security Act -- in establishing a renewable fuels mandate through at least 2022 -- signaled a long-term commitment by the federal government to incentivize the diversification of fuel sources and the development of cleaner transportation fuels for the United States. Many others made similar investments based on this perceived commitment. There is over 1.8 billion gallons of annual biodiesel production capacity in the United States, and the domestic industry currently employs over 31,000 people, often in rural areas with high rates of unemployment.

Our industry can meet and exceed the volumes mandated by the federal government, and we hope that the federal government maintains the policies that have enabled this industry to grow so rapidly. The biodiesel industry is still young, and needs the consistent support of the federal government for several more years. However, I do not anticipate that the industry will need a tax incentive indefinitely. I personally believe that the industry will be able to operate without the tax credit in three to five years, as long as the RFS2 program continues to provide market certainty.

If the Congress wants to control the overall cost of the tax credit, and to spur more domestic production, I would encourage the transition to the production tax credit that Senators Cantwell and Grassley have been championing for several years. A production tax credit would only be available to domestic producers, whereas the current blender's credit is available even when qualifying imported biodiesel is blended with traditional diesel.

In closing, Mr. Chairman and Ranking Member Cornyn, I want to thank you again for convening this hearing today to examine this important issue. While I am here in my capacity as President and CEO of Renewable Biofuels, I think I speak for most producers when I say that the seamless extension of the tax credit for biodiesel is the single highest priority for the domestic biodiesel industry. I am happy to answer any questions you may have.