

TRANSCRIPT OF PROCEEDINGS

PROPOSED AMENDMENTS TO THE) M.O. No. 959
MARKETING ORDER REGULATING) Docket No. AMS-SC-24-0070
ONIONS GROWN IN SOUTH) 25-J-0088
TEXAS)

Pages: 1 through 305
Place: Mission, Texas
Date: February 3, 2026

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1 BEFORE THE UNITED STATES DEPARTMENT OF AGRICULTURE
2
3 PROPOSED AMENDMENTS TO THE) M.O. No. 959
4 MARKETING ORDER REGULATING) Docket No. AMS-SC-24-0070
5 ONIONS GROWN IN SOUTH) 25-J-0088
6 TEXAS)

7
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9 Agricultural Marketing Service
10 Specialty Crops Program
11 14th and Independence Ave., SW
12 Washington, DC 20250

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14 MARKETING ORDER FOR ONIONS GROWN IN SOUTH TEXAS
15 February 3, 2026

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18 On the 3rd day of February, 2026, the following
19 proceedings came on to be heard in the above-entitled
20 and numbered cause before the Honorable Tierney Carlos,
21 Administrative Law Judge for the UNITED STATES
22 AGRICULTURAL DEPARTMENT, held in Mission, Hidalgo
23 County, Texas.

24 Proceedings reported by computer-aided
25 transcription.

1 APPEARANCES:

2 PRESENT FOR USDA:

3 Christy Eankey

4 ATTORNEY FOR AGRICULTURAL MARKETING SERVICE:

5 Michelle McMurtray
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14 U.S. Department of Agriculture
15 Marketing Specialist
16 E-mail: Delaney.Fuhrmeister@usda.gov17 Kerry Harmon
18 U. S. Department of Agriculture
19 Deputy Director of Market Development
20 Division Agricultural Marketing Service
21 E-mail: Kerry.Harmon@usda.gov22 Marc McFetridge, Economist
23 U.S. Department of Agriculture
24 Agricultural Marketing Service Specialty Crops
25 Programs Market Development Division

18 ALSO PRESENT:

19 Dante Galeazzi, STOC (TIPA President)

20 Jed Murry, TIPA

21 Bret Erickson, Producer

22 Sabrina Fisher, TIPA Marketing Director

23 Michael Davis, Producer/Handler

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VOLUME 1

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1 EXHIBITS OFFERED BY USDA

2 Use is indicated as follows:
 3 R - Record Only

4	EXHIBIT	DESCRIPTION	OFFERED	ADMITTED	USE
5	1	Proposed Rules, Federal Register	18 v1	19 v1	R
6		V91, No. 15, 01/23/26			
7	2	Certificate Notice of Hearing	18 v1	19 v1	R
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25					

1 P-R-O-C-E-E-D-I-N-G-S

2 Whereupon,

3 9:08 a.m.

4

5 ADMINISTRATIVE JUDGE CARLOS: All right.
6 Good morning. My name is Tierney Carlos. I'm the
7 Administrative Law Judge at the United States Department
8 of Agriculture. In this capacity I will be presiding
9 over today's hearing.

10 We have gathered in this setting to
11 conduct a mandatory hearing on the recommended changes
12 to the Federal Marketing Order for South Texas onions.

13 This proceeding has been assigned the
14 following docket or case numbers: AMS-SC-24-0070, and
15 on my docket it's 25J-0088.

16 South Texas Onion Committee locally
17 administers the marketing order program whose
18 regulations are contained in Title 7 of the Code of
19 Federal Regulations, Part 959. The committee
20 recommended the amendments that we will be discussing
21 during this hearing.

22 A Federal Register notice containing these
23 proposed amendments was published on January 23rd, 2026,
24 Federal Register Volume 19, Number 15, pages 2880 to
25 2882.

1 As required by 7 CFR, Section 900.8(c)1.
2 This Federal Register notice will be put on the record
3 as an exhibit, along with the affidavit of certificate
4 of the giving of notice and the determination provided
5 for in 900.4(c).

6 As set out in the notice, the proposed
7 amendments would amend Federal Marketing Order 959 to
8 lower of threshold for continuance or referendum, expand
9 research and promotion authority to include marketing
10 promotion and paid advertisement, to added the authority
11 to accept voluntary contributions, and increase
12 committee size member by one seat to include a public
13 member.

14 The proposals will also include several
15 confirming changes necessary to effectuate these
16 amendments to the marketing order.

17 The purpose of this hearing is for the
18 U.S. Department of Agriculture or USDA to gather
19 testimony and other evidence in support of or in
20 opposition to the committee's recommendations.

21 My role as presiding Administrative Judge
22 is to ensure the hearing adheres to the procedures
23 prescribed in Title 7 of the Code of Federal
24 Regulations, Part 900, titled General Regulations,
25 procedural requirements governing proceedings pertaining

1 to marketing agreements and marketing orders.

2 Additionally, it is my responsibility to
3 ensure that the information gathered during this hearing
4 is pertinent to the subject matter of the aforementioned
5 Federal Register notice.

6 If witnesses make comments or testify to
7 subject matters outside the scope of the contents of the
8 Federal Register Notice, I have the authority to
9 interrupt and not allow the witnesses to continue.

10 I will not be issuing a decision at the
11 conclusion of this hearing. USDA will refer to the
12 information gathered during this hearing to determine
13 whether to move forward with the committee's
14 recommendations.

15 By law and regulations USDA oversees the
16 committee's activities to ensure compliance with the
17 applicable laws, regulations and policies and conduct
18 rulemaking procedures such as this one.

19 I will administer the hearing to allow for
20 testimony from or on behalf of interested parties,
21 cross-examine of witnesses by interested parties or
22 their representatives, and submissions of supporting
23 documents as evidence as specified in Title 7 of the
24 Code of Federal Register, Part 900.

25 As an initial step, we have notices of

1 appearance -- appearances of all USD personnel,
2 including technical support staff and of all witnesses
3 so that we are aware of who will be managing different
4 functions of these proceedings. Each person will be
5 asked to state and spell their names, give their
6 professional titles and to described their roles during
7 in the hearing, including identifying on whose behalf
8 are speaking.

9 We have developed a list of witnesses
10 desiring to testify. I will call those witnesses in
11 order as they appear on that list as it has been
12 presented to me. Witnesses registered to testify
13 virtually will be called to testify after all in person
14 witnesses have gone.

15 Prior to testifying each witness will be
16 sworn in and asked to state and spell their name for the
17 hearing record.

18 The regulations also require a witness
19 provide their occupation and address. Indifference to
20 concerns about the public disclosure of personal
21 protected information, I'm going to ask that witnesses
22 do not divulge an address, that is the address of their
23 personal residence, but to ensure that the court
24 reporter has a working regular mail address for you.

25 In addition, I would like to note that

1 this hearing may include a limited number of USDA
2 personnel staff joining virtually for training purposes
3 only. These USDA individuals would not be referred to
4 as part of the record and are neither witnesses nor
5 members of the public.

6 All witnesses entertain -- entering
7 exhibits should have the copies prepared. If the copies
8 need to be made, the USDA technical team can prepare for
9 copies of these exhibits for hearing participants.

10 At the beginning of each witnesses
11 statement, the witnesses should identify all exhibits
12 that they will be referring to during their testimony so
13 that everybody is viewing the correct exhibit.

14 To the extent possible, witnesses should
15 work with the USDA technical team to provide copies of
16 their testimony prior to testifying.

17 Witnesses and cross-examiners are asked to
18 refer to exhibit documents by the established exhibit
19 numbers during their testimony. Once witnesses finish
20 making his or her comments, I will officially enter
21 those exhibits into the record, subject to any
22 objections that may be made by other participants at the
23 time.

24 As noted, it is part of my duties to
25 exclude irrelevant or immaterial testimony of exhibits.

1 I will also preclude unduly repetitious testimony or
2 questions. To avoid repetition, I ask that any person
3 seeking to question the witness be present in the room
4 for and listen carefully to the entirety of that
5 witness's testimony.

6 Objections to testimony and exhibits may
7 be made by raising your hand and saying objection. The
8 standard for an objection in this proceedings is
9 different than the standard for objection in an
10 adversarial proceeding. We will use a relax standard
11 intended to screen out materials that are truly
12 irrelevant or violate procedural rules.

13 For instance, if you believe that an
14 exhibit should not be offered into the record because
15 you believe it is not authentic, relevant or material to
16 the subject matter in the hearing, you may object on
17 those grounds. Objections are not testimony and are not
18 cross-examined. If you would like to testify and/or
19 cross-examine a witness, there are different mechanic --
20 mechanisms to do that. You cannot use objections to
21 testify or cross-examine witnesses.

22 I may also direct on my own without an
23 objection being made by a participant. As I previously
24 indicated, the record -- the regulations specifically
25 provide that I may limit the testimony of the witnesses

1 to avoid unduly, cumulative or unnecessary corroborative
2 testimony.

3 Participants and witnesses are to
4 object -- address each other through me. In terms of
5 direct and cross-examination after a witness has
6 completed delivering his or her prepared materials, the
7 parties offering the witness, either members of the USDA
8 or the proponent industry will be given the first
9 opportunity to question the witness.

10 Once finished, I will give the parties not
11 offering the witness each member of the proponent
12 industry or the USDA an opportunity to question those
13 witnesses.

14 After both the USDA and the industry
15 proponent have completed their questioning, I will
16 provide the members of the audience an opportunity to
17 ask questions. Audience members are asked to
18 self-identify by stating and spelling his or her name
19 and identifying affiliation.

20 Affiliation refers to your professional
21 title and which group of business you are associate --
22 associated with, if any. We also welcome members of the
23 public to offer testimony and submit exhibits.

24 After I finish these opening remarks, I
25 will give an opportunity for anyone in attendance who

1 has not already signed up to be a witness to sign up and
2 testify. Additional opportunities to sign up will be
3 given each day following the lunch break and before the
4 close of the hearing.

5 If public members are going to -- who are
6 going to testify wish to submit documents, including
7 written testimony into evidence they can work with the
8 USDA's technical team to provide copies prior to
9 testifying.

10 The court reporter is transcribing the
11 entire hearing. Each time you speak, please state your
12 full name for the hearing record to ensure accuracy.

13 I encourage all participants to speak
14 clearly and slowly to ensure that the court reporter is
15 able to transcribe everything. If the court reporter
16 should have difficulty hearing or understanding a
17 witness, she may interrupt and request assistance. It
18 is important that we speak or speak one at a time.

19 The USDA will post the entire transcript,
20 witnesses testimony and exhibits to a website in a
21 reasonable time frame after the close of the hearing.

22 We will establish a time after the
23 transcript is made available for participants to submit
24 proposed corrections to that transcript. Corrections
25 are limited to spelling or word identification

1 corrections. Corrections may not include a change to
2 the actual testimony given by a witness. There will
3 also be an opportunity for objections to the proposed
4 transcript corrections. Once corrections are accepted
5 and the transcript is certified, participants will have
6 the opportunity to file brief regarding the proposed
7 findings of fact and conclusions of law based upon the
8 hearing record. New evidence or alternative proposal --
9 proposals may not be included in those briefs.

10 I would like the participants to confer on
11 how to go about the scheduling of transcript
12 corrections, objections or briefs. I am here to serve
13 the parties in that regard and to serve the USDA
14 officials who will write the decisions.

15 We will be taking periodic breaks and
16 lunch breaks at my direction. If the hearing reporter
17 is tiring, we will certainly take that into account. We
18 have two days scheduled for this hearing. If we finish
19 in advance -- in advance of the closing of the second
20 day, I will expect to close the hearing at that time.

21 This concludes my preliminary remarks.

22 Are there any questions at this time?

23 Okay. There being none, the first thing
24 we're going to do is do appearances and note those for
25 the record.

1 So I guess we'll go with the USDA
2 personnel, and let's begin.

3 MS. EANKEY: Thank you, Your Honor.

4 My name is Christy Eankey, that's
5 C-H-R-I-S-T-Y, E-A-N-K-E-Y. I represent the United
6 States Department of Agriculture, Agricultural Marketing
7 Service Specialty Crops Program Market Development
8 Division. And my purpose here today is to conduct
9 cross-examination of the witnesses. Thank you.

10 MS. McMURTRAY: Good morning. My name is
11 Michelle McMurtray, M-I-C-H-E-L-L-E, McMurtray is
12 M-C-M-U-R-T-R-A-Y. I'm an attorney with the office of
13 the general counsel at the Department of Agriculture and
14 I represent the Agricultural Marketing Service, and my
15 purpose today is to be here to conduct cross-examination
16 of witnesses.

17 MS. CHILUKURI: Good morning. My name is
18 Rupa Chilukuri. That's spelled R-U-P-A, last name
19 Chilukuri, C-H-I-L-U-K-U-R-I. I'm also an attorney with
20 the office of general counsel at the U.S. Department of
21 Agriculture, and I'll be representing the Agricultural
22 Marketing Service at this hearing, and I'll also be
23 cross-examining witnesses today. Thank you.

24 MS. FURHMEISTER: Hello. My name is
25 Delaney Fuhrmeister, that's D-E-L-A-N-E-Y, Fuhrmeister,

1 F-U-R-H-R-M-E-I-S-T-E-R, I'm marketing specialist with
2 the USDA Agricultural Marketing Service and Market
3 Development Division.

4 MR. MCFETRIDGE: Hello. My name is Marc
5 McFetridge, M-A-R-C, M-C-F-E-T-R-I-D-G-E. I'm an
6 economist with the United States Department of
7 Agriculture, Agricultural Marketing Service, Specialty
8 Crops Programs Market Development Division, and I will
9 be testifying and also cross-examining when people are
10 testifying.

11 MR. HARMON: My name is Kerry Harmon,
12 K-E-R-R-Y, H-A-R-M-O-N, Deputy Director of Market
13 Development Division Agricultural Marketing Service. I
14 am on behalf of USDA and I will be cross-examining the
15 witnesses.

16 ADMINISTRATIVE JUDGE CARLOS: Okay. Let
17 me do the witnesses now, or do they make appearances?
18 So why don't Mr. -- I'll start with witnesses.

19 Who's going to testify? Go ahead. Who's
20 first? We're going to go with people -- you want to
21 note your appearances for the record?

22 THE WITNESS: Yes.

23 ADMINISTRATIVE JUDGE CARLOS: Okay.
24 Good. Yes, go ahead.

25 THE WITNESS: Okay. My name Dante

1 Galeazzi, spelled D-A-N-T-E. Last name G as in Georgia,
2 A-L-E-A-Z-Z-I. I am the president and CEO of the Texas
3 International Produce Association. I am also the
4 executive manager for South Texas Onion Committee.

5 ADMINISTRATIVE JUDGE CARLOS: Got it.
6 Next.

7 THE WITNESS: Bret Erickson, executive
8 vice president for Little Bear Produce. It's B-E-R-T,
9 E-R-I-C-K-S-O-N.

10 THE WITNESS: My name is Jed Murray. I'm
11 representing Texas National Produce Association. My
12 name is J-E-D, M-U-R-R-A-Y, and I'll be giving you
13 agricultural perspective and operation information.

14 ADMINISTRATIVE JUDGE CARLOS: Okay.
15 Next.

16 THE WITNESS: My name is Sabrina Fisher,
17 S-A-B-R-I-N-A, F-I-S-H-E-R, I'm the director and
18 marketing communications of Texas International Produce
19 Association.

20 THE WITNESS: My name is Kristen Davis,
21 K-R-I-S-T-E-N, Davis, D-A-V-I-S. I'm the safety
22 coordinator for TexMex Hills and TM Farms, and I'm on
23 the board of TIPPA and South Texas Onion Committee.

24 THE WITNESS: My name is Michael Davis,
25 M-I-C-H-A-E-L, D-A-V-I-S, I'm the owner of TexMex Hills

1 and TM Farms, and I'm also a member of the South Texas
2 Onion Committee.

3 ADMINISTRATIVE JUDGE CARLOS: Okay.
4 Thank you. I think that takes everybody up. That's it.
5 Good.

6 All right. I guess we're going to start
7 with the first witness, who I believe is the economist.

8 MS. McMURTRAY: Before we do intend to
9 call him, I do have a couple of preliminary exhibits for
10 everyone.

11 ADMINISTRATIVE JUDGE CARLOS: Okay. Go
12 ahead.

13 MS. McMURTRAY: So our first exhibit that
14 we are offering is a copy of the list that was published
15 in the Federal Register on January 23rd, 2026.

16 ADMINISTRATIVE JUDGE CARLOS: Okay.

17 MS. McMURTRAY: Exhibit 2.

18 ADMINISTRATIVE JUDGE CARLOS: This is
19 Exhibit 1. Up there. Good.

20 MS. McMURTRAY: Exhibit 2 is the
21 certificate indicating that a true copy of the notice of
22 hearing was mailed to interested parties.

23 ADMINISTRATIVE JUDGE CARLOS: Okay.

24 MS. McMURTRAY: Exhibit 3 is a
25 certificate indicating that USDA issued a news release

1 regarding the notice of hearing.

2 And then Exhibit 4 is a certificate of
3 individuals notified regarding the hearing, and that's
4 specifically for the Governor of Texas and the State
5 Department of Agriculture. So these we offer as
6 required by regulations at 7 CFR 900.4(b).

7 ADMINISTRATIVE JUDGE CARLOS: Okay. Any
8 objections? No objections. They're admitted into
9 evidence.

10 MS. McMURTRAY: And now we will call
11 Mr. McFetridge.

12 ADMINISTRATIVE JUDGE CARLOS: Okay.
13 Please raise your right hand.

14 (Witness sworn at 9:26.)

15 ADMINISTRATIVE JUDGE CARLOS: Please
16 state your full name for the record spelling your name.

17 THE WITNESS: Sure. My name is Marc
18 McFertridge. Last name spelled is M-C-F-E-T-R-I-D-G-E.
19 I am an economist with USDA.

20 Will I be able to go off the record for a
21 second.

22 ADMINISTRATIVE JUDGE CARLOS: Yes.
23 That's a first. Okay. Let's go. Off the record.

24 (Off the record.)

25 ADMINISTRATIVE JUDGE CARLOS: All right.

1 We're back on the record.

2 MARC MCFETRIDGE,

3 having been first duly sworn, testified as follows:

4 TESTIMONY OF MARC MCFETRIDGE

5 MR. MCFETRIDGE: All right. My name is
6 Marc McFetridge. I've work at the U.S. Department of
7 Agriculture USDA since 2006. From December 2009 to
8 present I worked as an agricultural economist where my
9 duties include preparing economic and statistical
10 analysis, which are used by government officials to help
11 administer federal programs for specialty crop programs.

12 I received a bachelor's degree in
13 agriculture business management in 2001 from Oregon
14 State University and a master's degree in agriculture
15 and resource economics 2004 from Oregon State
16 University.

17 For this hearing on Texas onions, I
18 prepared a report titled Texas Onions Crop Years 2014
19 through 2024. The data source is the National
20 Agricultural Statistics Service, NASS, USDA.

21 The purpose of this report is to introduce
22 U.S. government data and other relevant information into
23 the hearing record. The data and graphs include in the
24 prepared report are intended to be used by all parties
25 involved in the hearing in discussing and analyzing the

1 merits of the various proposed amendments. Data for the
2 2025 crop year will not be available until
3 February 12th, 2026, when NASS will release the
4 Vegetables 2025 Summary.

5 NASS reports the crop years as the year
6 the onions were harvested. The Federal Marketing order
7 defers -- or defines the fiscal period as a 12-month
8 period beginning with August 1st of any year and ending
9 July 31st of the following.

10 To avoid confusion, I'll be presenting the
11 data from NASS reports so interested parties can easily
12 refer to NASS publications to verify the information I
13 have presented.

14 Besides Texas, NASS reports that onions
15 are also produced in the following states: California,
16 Colorado, Georgia, Idaho, New Mexico, New York, Oregon
17 and Washington.

18 MS. McMURTRAY: Can we just pause for a
19 second. I just want to clarify for Mr. McFetridge that
20 his testimony we'd like to mark as Exhibit 5, and then
21 he's going to start going over some data and that will
22 be Exhibit 6, and it's the document that's Texas Onions
23 crop years 2014 through 2024.

24 ADMINISTRATIVE JUDGE CARLOS: Okay. Any
25 objections from anybody regarding the Exhibit 5 or 6?

1 No objections. Admitted.

2 MS. McMURTRAY: Thank you.

3 THE WITNESS: Harvested Acres. The graph
4 on page 4 shows the total harvested acres. Harvested
5 acres reached a ten year high during 2017 at
6 11,500 acres. Since 2017 acres harvested that
7 fluctuated between 11,000 acres to 9,000 acres.
8 Harvested acres in 2024 were reported at 9,500 up 5.6
9 percent compared to 2023, and down 4 percent compared to
10 the previous five-year average.

11 Yield. The graph on page 5 shows the
12 average yield for Texas onions. The average yield over
13 the past ten crop years was 27,663 pounds per acre.
14 Yields reached a high of 33,800 pounds per acre during
15 2020. The lowest yield occurred during 2015 at 2000
16 (sic) per acre. The yield for 2024 were reported at
17 23,500 pounds per acre, down 6 percent compared to 2023
18 and down 21 percent compared to the previous five year
19 average.

20 Utilized Production. The graph on page 6
21 shows the utilized production of Texas onions. Utilized
22 production has fluctuated between 200 to
23 400 million pounds in the previous ten years, with one
24 exception: In 2015 when utilized production only
25 totaled 80 million pounds, significantly lower than any

1 other utilized production values the past ten years.

2 Utilized production reached a high for
3 2020 at 368,080,000 pounds. For 2024 the utilized
4 production of Texas onions was reported at
5 223,030,000 pounds, down 11 percent compared to 2023,
6 and down 24 percent compared to the previous five-year
7 average.

8 Prices Received by Producers. The graph
9 on page 7 shows the average prices received by
10 producers. Prices have trended upwards since 2019. The
11 prices received for Texas onions for 2024 were reported
12 at 38 cents per pound, up 11 percent compared to 2023,
13 and up 25 percent compared to the previous five year
14 average.

15 Total Value of Utilized Production. The
16 graph on page 8 shows a total value of utilized
17 production. Over the past ten years, the total value of
18 utilized production was lowest during 2015 at
19 \$19,680,000. For 2024 the total value of utilized
20 production was \$84,751,000, down one percent compared to
21 2023, and down less than one percent compared to the
22 previous five-year average.

23 That concludes my testimony.

24 ADMINISTRATIVE JUDGE CARLOS: Okay. Any
25 cross-examination from any of the witnesses from the

1 USDA?

2 MS. EANKEY: I do not have any questions.

3 ADMINISTRATIVE JUDGE CARLOS: No. No.

4 No. Okay. Any questions from any of the audience?

5 MR. GALEAZZI: Yes.

6 CROSS-EXAMINATION

7 BY MR. GALEAZZI:

8 Q. Mr. McFetridge, can you say within certainty
9 what percentage of the acres harvested are fresh onions,
10 because the marketing order is specific to fresh onions
11 and not necessarily processed onions?

12 A. NASS did not report that breakdown. As -- as
13 the number gets smaller, they don't because they don't
14 want to give proprietary information out, so they just
15 basically don't report any numbers once they get so
16 small that growers can figure out what they're
17 competitors are doing, so the totals are total picked
18 onions not -- total processed and fresh altogether.

19 ADMINISTRATIVE JUDGE CARLOS: For the
20 record, that was Mr. --

21 MR. GALEAZZI: Galeazzi.

22 ADMINISTRATIVE JUDGE CARLOS: Okay. Hey,
23 what happened to 2015?

24 MR. GALEAZZI: We got nine inches rain
25 between October and May. We normally get about 20

1 inches of rain, but during the summer. So it was a very
2 uncharacteristic weather pattern, and that's why you can
3 see the acres are basically non-existent.

4 ADMINISTRATIVE JUDGE CARLOS: Yeah. And
5 then high prices in 2022 with Covid?

6 MR. GALEAZZI: Well, unfortunately not.
7 We had the St. Valentine's Day freeze in '21, which
8 demolished most of the production, and so production was
9 available. We got hit very hard.

10 What you will see is in 2025 when that
11 data comes out, our folks got about 28 cents per pound
12 in 24 and maybe got about 15 cents per pound last year,
13 so very cyclical with lots of outside market factors
14 that interrupt the value of the crop.

15 ADMINISTRATIVE JUDGE CARLOS: Okay.
16 That's why your testimony is relevant to what we're
17 discussing today why, basically.

18 MR. McFETRIDGE: So this is to put all
19 the information that we have from NASS for the last ten
20 years so that we can use that in case we need to justify
21 any of the amendments that is being proposed today.

22 ADMINISTRATIVE JUDGE CARLOS: All right.
23 Thank you.

24 All right. Any other questions? That's
25 it. Okay. You're excused. Thank you.

1 MR. MCFETRIDGE: Thank you.

2 ADMINISTRATIVE JUDGE CARLOS: Who's next?
3 Okay. You are, I think Mr. Davis, right, Michael Davis?

4 AUDIENCE MEMBER: No. No. He's --
5 he's -- he's stepping out for a second. The industry
6 experts first.

7 ADMINISTRATIVE JUDGE CARLOS: He looks
8 like an expert to me.

9 MR. GALEAZZI: He is an expert.

10 MS. EANKEY: I'm sorry. Sorry.

11 MR. GALEAZZI: No worries.

12 ADMINISTRATIVE JUDGE CARLOS: Thank you.
13 Okay. Did I admit 5 and 6 as exhibits?

14 MS. EANKEY: Yes.

15 ADMINISTRATIVE JUDGE CARLOS: I'm sorry.
16 Mr. Murray.

17 THE WITNESS: Yes, sir.

18 ADMINISTRATIVE JUDGE CARLOS: So would
19 you please move your microphone closer to you. All
20 right. Next, raise your right hand.

21 (Witness sworn at 9:40.)

22 ADMINISTRATIVE JUDGE CARLOS: All right.
23 Please state your full name for the record, spelling
24 your last name.

25 THE WITNESS: Jed Murray. Last name is

1 spelled M-U-R-R-A-Y.

2 ADMINISTRATIVE JUDGE CARLOS: Okay.

3 Before we begin, Mr. Murray, I have here Exhibit 7,
4 which is your proposed -- well, your testimony, correct,
5 written testimony?

6 MR. MURRAY: Correct.

7 ADMINISTRATIVE JUDGE CARLOS: All right.
8 Any objections to this? No objections to Exhibit 7, so
9 they're admitted into evidence.

10 All right. Please, begin.

11 JED MURRAY,

12 having been first duly sworn, testified as follows:

13 TESTIMONY OF JED MURRAY

14 MR. MURRAY: My name is Jed Murray and
15 I'm here today in support of the proposed amendments to
16 Federal Marketing Order number 959, which governs onions
17 produced in South Texas.

18 I serve as the Director of Government
19 Relations for the Texas International Produce
20 Association, representing growers, handlers and allied
21 partners engaged with the Texas 1015 Sweet Onion
22 industry.

23 The purpose of my testimony is to provide
24 a factual overview of the Texas 1015 Sweet Onion
25 industry, its economic conditions, and the role of South

1 Texas Onion Committee in ensuring regional marketing,
2 quality standards, effective research and promotion
3 activities essential to this critical Texas crop.

4 The South Texas Onion Committee
5 administers Federal Market Order Number 959, established
6 in 1961, under the American -- under the Agricultural
7 Marketing Agreement Act of 1937. The Order provides
8 authority for quality inspection, research and promotion
9 of onions produced within 35 South Texas counties,
10 extending from the Rio Grande Valley northward through
11 the Winter Garden region.

12 This production area benefits from a mild
13 winter climate that allows onions to mature earlier than
14 in most other U.S. growing regions making Texas the
15 nation's first domestic onion crop each spring.

16 The Committee consists of both producers
17 and handler members and alternates. A producer is a
18 person who grows onions for market in the production
19 area. A handler or packer/shipper is a firm that
20 receives, grades, packs and markets onions produced in
21 the area. Any qualified producer or handler regardless
22 of operation size may be nominated and serve in
23 accordance with the Marketing Order's nomination and
24 appointment procedures.

25 As of 2024-2025 season, the industry

1 includes approximately 65 active producers and nearly 25
2 handlers/packers ranging from small family farms to
3 large vertically integrated operations. The Texas onion
4 industry operates through close coordination between
5 growers and handlers. Many growers contract production
6 with shippers, while some operations manage their own
7 packing and marketing. Cooperative organizations,
8 including Texas International Produce Association
9 support grower education, research and marketing
10 development.

11 There are two principal growing regions
12 for Texas 1015 Sweet Onions: The Rio Grande valley and
13 the Winter Garden. In the Rio Grande Valley planting
14 typically occurs in September through October with
15 harvest beginning in March and continuing through May or
16 early June. In the Winter Garden planting generally
17 follows later October to November with typical -- with
18 harvest typically running from late April through June,
19 depending on the weather.

20 The Texas 1015 Sweet Onion was developed
21 at Texas A&M University in 1983 by Dr. Leonard Pike, is
22 a signature variety for the region renowned for its mild
23 flavors and low pungency. Because of sweetness and low
24 pyruvic content, the Texas 1015 does not store long-term
25 and is marketed fresh, with most sales occurring days

1 after harvest. By contrast, storage onions, long-day
2 types from the northwestern states are cured for longer
3 storage and marketed over extended periods. Texas
4 onions first-to-market advantage provides an important
5 economic premium before overlapping supply from Georgia,
6 California and New Mexico enters the market.

7 The Texas onion growers are also facing
8 unique competitive pressures as the state's harvest
9 season bridges production between Mexico and Georgia.
10 This overlap creates intense market pressure on both
11 price and quality.

12 Texas producers work diligently to
13 maintain high size and grade standards within the
14 marketing order region, ensuring that poor-quality
15 product does not move through the state and compromise
16 the integrity of the Texas onion brand.

17 Once Georgia's onion harvest begins, Texas
18 growers must work hard to sustain sales volume and
19 pressure -- and preserve the market share. Georgia's
20 success in promoting its Vidalia Sweet onion has been
21 impressive, but it also highlights the need for renewed
22 attention to Texas' own marketing heritage.

23 The Texas 1015 Sweet Onion was the first
24 recognized sweet onion in nature developed by Texas A&M
25 University and proudly represents the state's

1 agricultural innovation. Texas growers are committed to
2 reclaiming and strengthening this promotional identity
3 reminding consumers and buyers alike in the Texas 1015
4 is the original and true American sweet onion.

5 Texas onion producers and handlers face
6 several constraints that affect planting decisions,
7 harvest, execution and marketing outcomes. These
8 challenges underscore the importance of maintaining and
9 modernizing the marketing order framework. The ongoing
10 drought and reduced Rio Grande River allocations have
11 limited irrigation capacity, increasing cost and
12 expansion.

13 Besides a lack of water, labor shortage
14 and costs of production have gone up, onions are heavily
15 dependent on farmworker labor. The limited availability
16 of domestic workers have strained profitability and
17 forced the producer to rely heavily on imported H2A
18 workers.

19 Covid-19 caused severe market disruptions,
20 particularly in food service. Although retail sales
21 offset some losses, volatility underscore the need for
22 coordinating marketing. Growers face many challenges,
23 but those are out of their control, but those out of
24 their control illustrate the crops vulnerability like
25 the 2021 Valentine's day freeze, and heavy rains further

1 justify the need for insurance and collective data
2 reporting supported by the STOC.

3 The industry is pursuing mechanical
4 harvesting solutions to address large labor shortages
5 and improve efficiency. Texas Agrilife with USDA-NIFA
6 support is conducting multi-year trials to evaluate
7 harvest designs, bulb durability and field
8 configurations for mechanization.

9 The Texas 1015 Sweet Onion industry
10 through STOC and TIPA have implemented several
11 initiatives connecting consumers with the crop's
12 identity and strengthening sales.

13 Keys marketing programs include the 1015
14 Restaurant Week, launched in 2022 this annual promotion
15 partners with restaurants across the Rio Grande Valley
16 and throughout Texas to feature dishes made with Texas
17 1015 Sweet Onions.

18 Now in its third year, the program has
19 drawn strong community and media engagement while
20 driving customer traffic during commercial the
21 promotional period. Further plans include expanding
22 additional Texas markets, beginning with San Antonio in
23 2026 to continue growing consumers awareness statewide.

24 The Texas 1015 Sweet Onion eating contest
25 occurred in San Antonio's 4th of July celebration first

1 held in 2024. This event brought Texas 1015 brand to
2 thousands of attendees at one of the state's largest
3 Independent Day celebrations, providing high visibility
4 exposure and positive local media coverage that
5 reinforced consumer awareness of the crop.

6 The city of Weslaco proclaimed themselves
7 the 1015 Sweet Onion City. This proclamation
8 established by the city of Weslaco. This annual civic
9 organization honors the Texas 1015 Sweet Onion's
10 economic and cultural impact on the Rio Grande Valley
11 serving as a focal point for grower participation and
12 community outreach.

13 The Texas 1015 Sweet Onion industry
14 represents over a century of South Texas agricultural
15 heritage. Through cooperative management under the
16 marketing order, growers and handlers maintain high
17 product quality, support market stability and invest in
18 modernization. Updating the Order is essential to align
19 governance with today's industrial realities, supporting
20 data-driven research, adoption of mechanization,
21 flexible marketing tools, and transparent representation
22 for operations of all sizes.

23 These improvements will help ensure
24 reliable supply, preserve Texas' first to market
25 advantage and sustain producer viability water in the

1 face of water and labor constraints.

2 For these reasons, I respectfully submit
3 my testimony in support of proposed amendments to
4 Federal Marketing Order 959.

5 ADMINISTRATIVE JUDGE CARLOS: Okay.
6 Thank you. All right.

7 Any cross-examination?

8 MS. EANKEY: Yes, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. EANKEY:

11 Q. My name is Christy Eankey and I'll be
12 conducting cross-examination. Thank you for your
13 testimony.

14 I don't believe you stated, but how long
15 have you been affiliated with the Texas International
16 Produce Association?

17 A. I was say approximately 18 years. I was on the
18 board of director for like 16 years, also, you know,
19 active member and now employed by TIPPA.

20 Q. And how long have you been involved in the
21 Texas onion produce industry?

22 A. Since 2004.

23 Q. In your testimony you describe onions as a
24 critical crop. What makes this a critical crop for
25 South Texas?

1 A. Well, first, because it's one of the very
2 first -- it's the first fresh onion that comes off in
3 the nation, so that gives a value to it because it's a
4 sweet onion, as opposed to an older onion that's stored,
5 consistently more pungent. And so, you know, a lot of
6 buyers like to buy first fresh crops when it comes off,
7 and so this is the first one into the marketplace, it
8 gives a market advantage, as well as the climate when it
9 grows, so it gives the grower the ability to have mixed
10 crops, so crop rotation for soil management as well, so
11 it needs to be in place so you can't always keep growing
12 one item on the field. You got to rotate and this is a
13 good rotation product.

14 Q. You mentioned there are about 65 active
15 producers and 25 handlers. Has this number changed over
16 the years?

17 A. Yes, the number actually has gone down when you
18 consider our shortage of water, as well as labor costs,
19 we've seen some attrition in our -- in our amount of
20 producers.

21 Q. Okay. I believe you also mentioned vertical
22 integration in your testimony.

23 Can you explain for the record what
24 vertical integration means for the industry?

25 A. Vertical integration would be you control from

1 the planting, the farming, growing the crops, the
2 harvesting and then packaging and selling all the way
3 through.

4 Q. Okay. So to clarify that means you are both a
5 producer and a packer, is that what vertical integration
6 means?

7 A. You can control all of that, yes.

8 Q. And are there any specific reasons why a
9 producer might go from being just a producer to being
10 vertically integrated from your perspective?

11 A. There would be quite a few reasons. That one
12 could just be their expansion and marketing and wanting
13 to have control of the whole product.

14 Q. Okay. And when producers decide to become
15 vertically integrated has that impacted the number of
16 producers and handlers in the industry?

17 A. It could. I mean, if a producer moves that
18 supply away from a handler, then a handler would --
19 dependent on the volume, you have other people if they
20 would stay in business or not, but could affect it.

21 Q. And why is Texas 1015s America's original true
22 sweet onion, what did you mean by that?

23 A. So to get into the weeds, onions are grown --
24 basically, there's three quality types of onions short
25 day, intermediate and long day onions, those are based

1 on day length and time.

2 So a short onions are closer to the
3 equator, shorter length of daylight. Intermediate would
4 be further up the latitude. And then your further ones
5 would be longer daylight for a day. So if you think
6 about it that way, your short onions are grown closer to
7 the equator, they mature fastest and quickest. And
8 because of that where we are based on our geographic
9 location, we are the first sweet onion that comes off in
10 the nation. And because the onion was created here in
11 Weslaco, we kind of had the right to say it's the first
12 sweet onion.

13 Q. Thank you.

14 ADMINISTRATIVE JUDGE CARLOS: Could
15 you -- is there a question?

16 MR. McFETRIDGE: No, I was just going to
17 further clarify, but I'll wait until it's my turn.

18 MS. EANKEY: Thank you.

19 Q. (By Ms. Eankey) Could you explain on the
20 record, what is the difference between onions that are
21 grown in the Rio Grande Valley and those grown in Winter
22 Garden.

23 A. The -- really the difference is going to be
24 timing.

25 Q. Okay. And why are they harvested at different

1 times and planted at different times?

2 A. Again, it's going to be maturity factor. We
3 still have more daylight here, so we're going to mature
4 faster than they do, even though they're -- they're
5 still in the same state, but not the same zone,
6 altitude -- altitude and light affect how fast it
7 matures.

8 Q. So the Winter Garden is further north?

9 A. Correct.

10 Q. Are these onions that are grown in the Winter
11 Garden versus the Rio Grande Valley are they marketed
12 differently or are they marketed the same?

13 A. The same.

14 Q. And just for clarification, for the record, the
15 primary marketing window for both varieties grown in
16 both regions is April through June?

17 A. That's correct.

18 Q. How does the Texas 1015 marketing window
19 overlap with other onion production from other states
20 and foreign imports from Mexico?

21 A. So Mexico is actually a little closer to the
22 equator, so they're going to mature before we do. So
23 depending on weather, they may mature faster or slower.
24 If they have, you know, colder or wetter season, so at
25 the same time we will mature that they might overlap our

1 volume. So when we start up they could still be peek
2 volume. They for some reason planted later because of
3 rain or whatever affected the planting window. As then
4 as we mature out, and then the -- we start warming up as
5 a whole in the northern hemisphere, other regions will
6 start have onions come off, Georgia and New Mexico. So
7 if they for some reason mature sooner than us, then they
8 go on top of us, or vice versa we can take longer to
9 mature, then we'll have volume when they're starting up.

10 Q. So there isn't a specific month when you --
11 when onions from Mexico or maybe from Georgia that are
12 overlapping with South Texas onions? It just depends on
13 when they mature; is that correct?

14 A. So the -- in general would depend all on mother
15 nature because of planting time when we plant. But, you
16 know, we just had a cold spell in Florida, so that will
17 slow down some nice crop and might speed it up somewhere
18 else, but we're running above normal right now. We have
19 our window of opportunity. But depends on weather in
20 each region they can push or slow down someone else's
21 production.

22 Q. So how does the competition in the marketplace
23 from onions grown in other states and imports affect the
24 sales of South Texas onions?

25 A. It affects the sales based on supply and

1 demand. So if one area has, you know, less supply,
2 that's going to drive the market up.

3 But it can also affect us is if -- with
4 each customer when you have supply ready takes about two
5 weeks for them to shut off wherever they're getting
6 supply from somewhere else to move their business to
7 you. And so it's critical that when we have our window
8 that we go ahead and lock up that supply and we maintain
9 that continuity. The only way you are going to lose
10 that volume is if someone comes in with a cheaper price,
11 so then you are going to have the price pressure on you.

12 Q. Has South Texas onions market share increased
13 or decreased over the years?

14 A. I think earlier it was testified that volume
15 has been consistent for like the last three years, so I
16 wouldn't say it's gone up or down.

17 Q. Has the overall production of Texas 1015s
18 increased or decreased over the years?

19 A. I would say the volumes is pretty consistent.

20 Q. You mentioned challenges, such as, drought,
21 irrigation limits, labor shortages and market
22 destruction.

23 How have those challenges affected Texas
24 1015s, the production of it?

25 A. So from a drought perspective a lot of our

1 growers are moving towards drip irrigation so they can
2 maximize their water. But in some cases we received
3 allocation from the government on water, which worked
4 out to be basically a third of an acre. It takes you --
5 it's about four inches takes about 20, 24 inches of
6 water to produce a crop, so you only have about four.

7 So really it kind of works out to almost
8 like a seven to one or eight to one ratio. So for every
9 one acre you're going to farm right now you have to
10 leave like seven fallow, so the drought has affected the
11 ability to produce more onions, but it also has grown
12 the cost up because growers are at best paying 3- to
13 \$4000 an acre and drip irrigation, varying irrigation
14 lines in order to grow the crop they have.

15 You asked about market destruction as
16 well, or what was the other part of the question?

17 Q. Labor shortages.

18 A. Labor shortages, basically we grow over 40
19 different crops in the area and three of them can be
20 mechanized through us has to be by hand labor. We know
21 that we have labor that are aging out. There are not a
22 lot of new people getting into our industry. And then
23 we have -- so there are not people who are domestically
24 here that want to get into the business, I think we are
25 seeing a variation.

1 We also look at population growth. You
2 know, I think we are like 1.6 now kids per family, so
3 there isn't a lot of people coming in the industry that
4 work in agriculture, because we have a -- not a
5 negative, but we have a slow growth rate, and so we have
6 to utilize H-2A workers. And then H-2A workers are
7 temporary workers and their average wages right now,
8 including paying for transportation, housing, as well as
9 the cost to relocate them is running about \$22 an hour
10 to our members; whereas, the minimum wages is 7.25 and
11 kind of the normal wages in this area is about \$12. So
12 you're seeing people have to add 8-, \$9 an hour per
13 person in order to harvest a crop.

14 Q. Okay. Would you say these challenges have
15 increased the cost of production of Texas 1015s?

16 A. Absolutely.

17 Q. And how would you say the cost of production
18 has impacted growers in Texas?

19 A. Well, it used to be about \$7 you break even,
20 now you need close to 13 on a unit, so it's definitely
21 affected their ability for profitability which affects
22 the ability to reinvest in infrastructure, affects our
23 ability to, you know, hire -- hire people and grow the
24 crops.

25 Q. Okay. In your testimony you mentioned many

1 different marketing campaigns, I think Restaurant Week
2 and others.

3 Can you explain TIPPA's role in regards in
4 those types of campaigns?

5 A. No, I can't. That's not my area. I handle the
6 government relations. I know how to do, but I don't
7 know the actual interaction between that. That's
8 something Sabrina Fischer can testify to. She's our
9 marketing director.

10 Q. Okay. I'm not sure if you'll be able to answer
11 this question, but let me know.

12 You mentioned that the industry is
13 pursuing mechanical harvesting solutions to address
14 labor shortages and improve efficiency and how Texas A&M
15 Agrilife is conducting multiyear trials to evaluate
16 harvesting designs.

17 Can you provide us with further detail as
18 far as what role does the committee play in these types
19 of research and development projects?

20 A. The committee offers guidance and suggestion,
21 and it also -- the committee recognized the need for
22 automation and that's for the study to take place.

23 Q. Okay. My understanding is that other witnesses
24 will be able to provide us greater detail, but is there
25 anything else that you'd like to share about the

1 industry?

2 A. No. I'm good. Thank you.

3 MS. EANKEY: Thank you. I have no
4 further questions.

5 ADMINISTRATIVE JUDGE CARLOS: Okay.

6 MS. McMURTRAY: I just have a couple of
7 questions for you.

8 CROSS-EXAMINATION

9 BY MS. McMURTRAY:

10 Q. So you talked about recent events like
11 Restaurant Week and the onion eating contest. Have you
12 noticed recently -- like, have you noticed any positive
13 outcomes from those types of outreach?

14 A. There's something I'll defer to Sabrina on, but
15 I definitely noticed traction on social media.

16 Q. Oh, okay.

17 ADMINISTRATIVE JUDGE CARLOS: Ms. McMurtr
18 ay, ask another question.

19 MS. McMURTRAY: Sorry. Thank you.

20 Q. (By Ms. McMurtray) And my other question is
21 that Georgia Vidalia onions and how they've been able to
22 market. What do you -- what does that order have that
23 you think makes them successful?

24 A. I think they utilize their monies for marketing
25 and we have not been able to do that the say.

1 MS. McMURTRAY: Okay. That's all I have.

2 ADMINISTRATIVE JUDGE CARLOS: Okay. Any
3 other questions?

4 MR. HARMON: What's -- Kerry Harmon.

5 CROSS-EXAMINATION

6 BY MR. HARMON:

7 Q. What's the difference between the marketing
8 that you are currently doing and how will it impact
9 based on changes made for the future?

10 A. If we were able to accept other contributions
11 and utilize the money for marketing work, then that
12 would promote the region, that would obviously hopefully
13 bring in the word in as to what we're doing with the
14 crop.

15 ADMINISTRATIVE JUDGE CARLOS: Any other
16 questions? Yes.

17 MR. McFETRIDGE: Mark McFetridge, USDA.

18 CROSS-EXAMINATION

19 BY MR. McFETRIDGE:

20 Q. So based on the small business administration
21 definition of a small agricultural service firm, which
22 includes handlers of those having annual receipts of
23 less than \$34 million, how would you classify -- and
24 feel free to say you're not able to classify yourself of
25 the Texas International Produce Commission, would you

1 state that they're a small or large entity based on --

2 A. I'm sorry. Ask that question again. I'm
3 confused.

4 Q. Sure. So the Small Business Administration
5 defines a small agricultural service firm as having
6 receipts less than \$34 million.

7 How would you -- would you be able to
8 classify, do you feel comfortable being able to say if
9 you're small or large agricultural firm?

10 A. TIPPA's?

11 Q. Yes.

12 A. Small. I wouldn't be in a position to say
13 that. You're talking outside my literature.

14 Q. No problem. I just have a few questions on
15 your testimony.

16 You referenced \$13 per unit. What's the
17 unit standard?

18 A. Well, units is 40 meter.

19 Q. Okay. So 40-pound box?

20 A. Yes, sir.

21 Q. All right. You described drip irrigation for,
22 for onions. I've seen drip irrigation like for, for
23 orchards so you can set up but for something that's
24 going to be constantly harvested.

25 Does that increase the cost for onion

1 production because you're going to have to -- now I
2 apologize if I put words in your mouth, but basically
3 take up that line every time as you're replanting the
4 field or it something you can set in?

5 A. It is not permanent, so with each crop it needs
6 to be picked up, and when you pick it up you usually
7 have tears, rips, insects really love drip for some
8 reason, so they'll drill holes into it, for some reason,
9 the onion shears, the harvest onions, love it as well,
10 and so there'll be lots of nicks and you have to -- you
11 cannot reuse it.

12 Q. So basically replacing it?

13 A. Every year you have to redo the drip
14 irrigation, lay down pipes or the drip irrigation.

15 Q. Thank you. So Texas 1015 Sweet Onion, could
16 you just provide a whole background, what does the 1015
17 signify?

18 A. So that's kind of the plant date, so if you
19 want to plant that's the August 15th.

20 Q. Okay.

21 A. Well --

22 ADMINISTRATIVE JUDGE CARLOS: But 1015
23 would be October 15.

24 THE WITNESS: That's correct.

25 ADMINISTRATIVE JUDGE CARLOS: Why isn't

1 it 9/15?

2 THE WITNESS: There's too early.

3 ADMINISTRATIVE JUDGE CARLOS: Why call it
4 1015?

5 THE WITNESS: That's the time frame you
6 want to be planting it.

7 ADMINISTRATIVE JUDGE CARLOS: Oh, they
8 plant it by 10/15.

9 THE WITNESS: Before then.

10 ADMINISTRATIVE JUDGE CARLOS: Before
11 then. All right. Got it.

12 Q. (By Mr. McFetridge) So before October 15th, so
13 after October 15th --

14 A. That's the deadline, let's say.

15 Q. Okay. This is kind of thinking outside the
16 box, and this is something I'll ask other folks too, but
17 do you think something like the Vidalia Onions, you
18 think possibly having, you know, including additional
19 road to marketing, you might consider changing 1015 to
20 kind of pop more within --

21 A. Are you saying in South Texas? That would be
22 part of the onion handlers group to decide that. That's
23 not for me to say.

24 Q. Do you think that would increase demand or at
25 least awareness?

1 A. I'm an operational guy.

2 Q. Okay.

3 A. So that's, again, outside of my expertise.

4 Q. Okay. So I have a question on the onion eating
5 contest. So are they just eating raw onions?

6 A. That's correct.

7 Q. What was the record?

8 A. It was just sampling. It wasn't who would eat
9 the most.

10 ADMINISTRATIVE JUDGE CARLOS: I was going
11 to ask the same question.

12 They have to bite into raw onions?

13 THE WITNESS: Yes, sir.

14 ADMINISTRATIVE JUDGE CARLOS: Okay. Who
15 won?

16 THE WITNESS: It wasn't a contest. Just
17 sample.

18 MR. McFETRIDGE: Okay. All right. Thank
19 you.

20 THE WITNESS: Sabrina -- Sabrina Fisher
21 can add more to that because she coordinates the
22 marketing work on that.

23 MS. CHILUKURI: Hi, Mr. Murray. I just
24 have a few questions.

25

1 CROSS-EXAMINATION

2 BY MS. CHILUKURI:

3 Q. Your testimony talks about low pyruvic content.

4 Can you explain a little bit more what
5 pyruvic means.

6 A. So that's going to be the pungency and has to
7 do with the soluble sugars in the onion. Because of,
8 you know, short lived onion -- if you think about onions
9 between how they are developed, the onions further upper
10 north in the equator are going to be storage onions,
11 right, so you go and pull, having harvested it, you are
12 going to stick it in the basement all winter long,
13 you're going to eat as you go.

14 Our onions here are going to have more
15 legital (ph), more strength in scope, they're not going
16 to be storage onions, so they're not going to be
17 something you would just harvest and store somewhere.
18 You are going to harvest and use it and consume it. So
19 we have less pressures, there's difference of those have
20 also sulphur-content affected, but that's what lower
21 pyruvic is.

22 Q. Okay. And you're obviously -- you say you're
23 with TIPA. Can you talk about the relationship between
24 the South Texas League and TIPA and how they interact or
25 how they're organized?

1 A. So my understanding is STOC contracts TIPA to
2 handle some of the back-end operations.

3 Q. Okay.

4 A. You'll need to ask Dante more about that.

5 Q. Okay. In terms of your role in TIPA, Texas
6 International Producers Association, do you work with
7 any other commodities or do you have familiarity about
8 that?

9 A. Yes. So first of all, TIPA represents anyone
10 that grows packaged produce in Texas, the fruits and
11 vegetables, as well as anyone who makes Texas first port
12 of entry into the United States. So among that we'll
13 have various low touch points from stuff like leafy
14 greens, cabbage to cauliflower, broccoli, as well as
15 anything that's imported from other countries through
16 Texas.

17 Q. Okay. Have you seen any successes that other
18 market orders that you may have encountered have had
19 with these proposals that if you get these in place you
20 seen success with them?

21 A. Well, if you look at avocados from Mexico have
22 done a great job.

23 Q. Okay.

24 MS. CHILUKURI: And I think that's it.
25 Thank you very much.

1 ADMINISTRATIVE JUDGE CARLOS: Okay.

2 Thank you very much for your testimony.

3 Okay. Okay. Who's next?

4 THE WITNESS: I believe I'm next.

5 ADMINISTRATIVE JUDGE CARLOS: Okay.

6 Please raise your right hand.

7 (Witness sworn.)

8 ADMINISTRATIVE JUDGE CARLOS: Please
9 state your full name for the record.

10 THE WITNESS: My name is Dante Galeazzi.
11 Spelled D-A-N-T-E, last name G as in Georgia,
12 A-L-E-A-Z-Z-I.

13 ADMINISTRATIVE JUDGE CARLOS: Okay. And
14 I believe we have -- is this, this is not marked.

15 Is this Exhibit 8. Any objection to
16 Exhibit 8? No objections. It's admitted. Please
17 start.

18 DANTE GALEAZZI,
19 having been first duly sworn, testified as follows:

20 TESTIMONY OF DANTE GALEAZZI

21 MR. GALEAZZI: Good morning. My name is
22 Dante Galeazzi, president and CEO of the Texas
23 International Produce Association. TIPPA has the honor
24 of being the organization responsible for managing
25 Federal Marketing Order 959, and the order's committee

1 and operations, which we affectionately know as the
2 South Texas Onion Committee or STOC.

3 TIPA was founded in 1942 and is
4 responsible for promoting, advocating, representing and
5 educating the \$13 billion fresh fruit and vegetable
6 industry that is either grown in Texas or considers
7 Texas its first point of arrival in the US. TIPA has
8 nearly 400 member companies who voluntarily participate
9 in the association, with members covering all aspects of
10 the supply chain from grower to distributor.

11 Personally, I come from a farming family
12 in central California. When I was 13 years old my first
13 job was counting the closed one hundred pound onion
14 sacks in the field covering as they sat in burlap curing
15 in the sun. I would progress in job duties over the
16 years until I was 18 years old covering jobs such as,
17 packing and stacking onions, driving forklifts, tractors
18 and 18-wheelers, placing sprinkler pipe and leading a
19 harvest crew and apples.

20 After graduating college with a degree in
21 International Business Management and two minors, I went
22 right back into the produce industry. I have held
23 positions with C.H. Robinson Worldwide and even managed
24 a portion of their perishable cargo division, Rio Queen
25 Citrus, Wonderful Company (formerly Paramount Citrus)

1 and Frontera Produce (including Crescent Fruit).

2 During that time, my posts have included
3 branch manager, regional sales director, new account
4 development, retail and food-service client management,
5 as well as a myriad of functional roles, including
6 overseeing special projects such as marketing,
7 purchasing, operations, Mexico and U.S. grower
8 relations, food-safety and recall/crisis-management.

9 I handled onion sales at both Rio Queen
10 and Crescent/Frontera from 2009 to 2017. Onions were
11 one of my principal commodities during that time. Along
12 with a sales team, we were responsible for selling
13 hundreds of loads. My clients were primarily grocery
14 stores and wholesale entities.

15 During that time I would also handle --
16 I'm sorry, I would handle onions not only from South
17 Texas, but also from central Texas, New Mexico,
18 Colorado, Oregon, Utah, Georgia and Mexico, covering the
19 states of Mexico of Tamaulipas Nuevo Leon, Chihuahua and
20 Coahuila. I dealt with many existing varieties and
21 packaging types, including dealing with introducing new
22 packaging requests.

23 And as is the case with new endeavors, I
24 failed at some and won at others alongside those teams
25 and companies. Importantly, both success -- both

1 success and lack thereof would teach an important
2 lesson, and perhaps even more importantly, helped me
3 develop additional understanding and skills to better
4 prepare me for the next request.

5 Prior to accepting the position of
6 president for TIPPA, I sat on the board of the
7 association as either a director-at-large or executive
8 member for the nine years immediately prior. During
9 that time, I was a part of the organization's move from
10 the previous iteration of Texas Produce Association, as
11 well as the committee that oversaw the creation of the
12 Border Issues Management Program and the highly
13 successful Viva Fresh Produce Expo. I would
14 occasionally attend STOC meetings during that time, but
15 since I was on the TIPPA board, it was often decided
16 someone else should sit on the STOC board from my
17 previous employers.

18 Today, I speak on behalf of the industry
19 drawing on my nearly 30 years of experience in the fresh
20 produce industry to speak on all five -- on all points
21 of consideration.

22 First point. Addition of a Public Member.

23 As an industry that feeds our neighbors
24 and drives our region, we benefit when our
25 decision-making reflects not only the growers and

1 shippers, but the communities we serve. Adding a public
2 voting member to the South Texas Onion committee
3 strengthens transparency, invites fresh perspective and
4 reinforces public confidence in how we manage and
5 promote one of Texas's signature crops.

6 Furthermore, it benefits the committee to
7 have the opportunity to include expertise outside of the
8 handler and producer members. As the Texas onion
9 industry determines the future of this industry, we
10 believe it is crucial that the committee be allowed to
11 include outside expertise in the decision-making
12 process.

13 Not only do the decisions made by STOC
14 impact the stakeholders, but the community as well.
15 Whether institutional, academia, allied, adjacent or
16 indirect affiliations, the ecosystem around these
17 businesses is interconnected and the future forward is
18 likely going to require partners we have yet to
19 discover.

20 Point two. Permit the Use of Outside
21 Funds, such as Grants.

22 The Texas onion industry must be allowed
23 to augment marketing and other efforts by complementing
24 industry funds with sources, such as federal and state
25 grants. Every dollar counts and the more dollars the

1 bigger the impact; however, securing those dollars is
2 difficult.

3 While the Texas industry has come a long
4 way in the last decade, including the decision to
5 increase the assessment specifically for the purpose of
6 marketing, the industry remains too small to compete at
7 the same scale as other food companies. Without outside
8 funds, the STOC has struggled to reach more than \$70,000
9 in marketed furnished per year.

10 While this is no small relative figure, it
11 is very small in the world of produce marketing, and
12 thus, a challenging amount with which to make an impact.
13 Paramount Citrus spent \$20 million in 2011 to take the
14 first steps with the Cuties brand. Afterwards,
15 Wonderful Citrus spent \$100 million to build the Halo
16 brand over five years beginning in 2014. These were
17 considered tremendous successes.

18 Looking at more recent campaigns, the
19 Produce for Better Health as spending 1- to \$5 million
20 per year nationally to increase produce consumption, but
21 that -- but they -- sorry, but those campaigns had
22 little impact. Meanwhile, California grown produce has
23 invested between 5- to 10 million per year, primarily in
24 the state, and has seen a ten percent increase of sales.

25 The point is it's hard to make an impact,

1 but it's even harder when we don't have the right
2 budget. Granting access to outside funds will give the
3 STOC an opportunity to better position Texas onions in
4 the marketplace.

5 Point three. Market Promotion Authority,
6 including Paid Advertisements.

7 Following with the prior point -- excuse
8 me, the STOC must also have the ability to use those
9 marketing funds on advertisements, promotions and any
10 other tool which can support increasing sales of Texas
11 onions.

12 Without sufficient room to conduct a
13 meaningful marketing promotions with tools, such as,
14 paid advertisements, messages are largely limited to our
15 own social media feeds and channels, or the association
16 is largely limited to research and education. Without
17 the ability to recruit influencers by advertisement
18 space or even work to develop in-store promotions, the
19 tools by which the STOC has space to market are very few
20 and extremely limited.

21 Allowing the committee to do this will
22 open not only the number of channels through which we
23 can share our message, but it also allows us to reach
24 different consumer segments, which means increased
25 market penetration and thus in turn higher sales lifts.

1 Points Number 4. To reduce terminating
2 voting threshold from 67 percent to 51 percent.

3 The last two continuation votes for the
4 Federal Marketing Order Number 959 required two
5 referendum votes each. While each of the original
6 votes, both in 2014 and 2020, exceeded the 51 percent of
7 support, both original votes failed to reach 67 percent
8 support. After a lengthy awareness campaign in both
9 cases, a second vote produced the next -- the necessary
10 67 percent.

11 In reviewing other marketing orders, it
12 appears that such a threshold is not common. We could
13 not find notes as to why such as a high threshold was
14 created. Anecdotally, speaking with older handlers and
15 producers in the region, they could not confirm why the
16 threshold was at 67 percent either, but they too
17 disagreed with this level.

18 As such, since a majority of the growers
19 is 51 percent and a majority support and clearly
20 continued to support the FMO Number 959 in prior
21 referendum and the number of producers in the region has
22 gone down, it is the opinion of the STOC that changing
23 order to a 51 percent continuation approval would be far
24 more efficient and the outcome of the votes would be far
25 better understood, while still providing the onion

1 growers of South Texas a vehicle for regional marketing
2 and commodity improvement.

3 In conclusion, the South Texas onion
4 industry continues to represent not only a proud
5 agricultural legacy, but also an opportunity for growth,
6 innovation and collaboration. The proposed updates to
7 Federal Marketing Order Number 959 reflect the realities
8 in today's marketplace and the collective desire for
9 producers and handlers to strengthen the future of this
10 commodity.

11 By adding a public member, expanding
12 outside of funds, authorizing market promotions and
13 modernizing the voting threshold, we can ensure that
14 South Texas Onion Committee remains relevant, effective
15 and inclusive in serving both the industry and the
16 community, and importantly, that the STOC has the tools
17 to achieve these goals.

18 As president and CEO of the Texas
19 International Produce Association and as someone who has
20 spent a lifetime in this industry from working the
21 fields as a young man to leading one of its most
22 established associations, I can say with confidence that
23 these recommendations are not only practical, but
24 necessary. They're design to strengthened this
25 industry, elevate the visibility of Texas onions and

1 sustain the economic vitality of our region and this
2 commodity for years to come.

3 We believe that through these adjustments,
4 the Committee will be better equipped to fulfill its
5 mission, supporting an industry that feeds families,
6 strengthens communities and exemplifies the resilience
7 and pride of Texas agriculture.

8 I respectfully submit these points for
9 your consideration, and thank you for your commitment to
10 the continued success of South Texas Onion Committee and
11 the Texas onion industry as a whole. Thank you.

12 ADMINISTRATIVE JUDGE CARLOS: Okay.
13 Thank you.

14 THE WITNESS: Judge, do you mind if I
15 grab a bottle of water.

16 ADMINISTRATIVE JUDGE CARLOS: No. Go
17 ahead.

18 Cross-examination.

19 MS. EANKEY: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. EANKEY:

22 Q. Can you help me pronounce your name.

23 A. Galeazzi. Think like pizza, Galeazzi.
24 Galeazzi.

25 Q. Galeazzi. Thank you for your testimony,

1 Mr. Galeazzi.

2 In what year did you take over the
3 position as a South Texas Onion Committee manager?

4 A. 2017.

5 Q. And can you briefly describe your
6 responsibilities as the manager of the committee?

7 A. I will attempt to be brief, yes.

8 So as the manager of STOC I oversee the
9 operation of the committee, and that includes calling
10 meetings, nominations. It also includes the
11 subcommittee activities, ensuring that we have
12 marketing, research, that we continue to develop into
13 the future, thinking about things outside of that as
14 well, so opportunities, for example, for our cold
15 onions, or the number twos has been a big piece we
16 worked on as well, as is thinking about the future of
17 the committee as a whole which is why we put forward
18 these four recommendations.

19 Q. Thank you.

20 Can you describe the committee's process
21 for considering these proposals such as the committee,
22 did they establish any subcommittees or work groups, how
23 did the committee ultimately end up recommending the
24 proposal to USDA. Can you explain the process?

25 A. Yes. So it has been a long process, we

1 actually started this back in 2018, and at the time we
2 were only focused on expanding into the grants and the
3 paid advertising because we saw that as a situation of
4 concern for us if we were going to be serious about
5 marketing Texas onions.

6 Over the years as we continued to discuss
7 the changes that we wanted to see, the conversation
8 expanded into these other two points that we have also
9 recommended. And it took us roughly three years once we
10 decided on these four points to find the appropriate
11 wording and support before submitting it to USDA.

12 We did have a series of workers as well at
13 various points. These workers focused on different
14 pieces, some of them focused, for example, when we did
15 marketing, we focused on those pieces. Later on we had
16 a worker for research and development, but decided that
17 we were -- we were happy with what we had with research,
18 and so that we did not see any recommendations come
19 forward from that worker.

20 Q. Okay. And at these meetings that were
21 conducted over the period of three years where you were
22 discussing the proposals, were there any members that
23 expressed different views about them, each proposal?

24 A. Not the proposals that we have. There were
25 different views on some of the other pieces of the

1 association, for example, the assessment levels or the
2 amount for marketing.

3 To expand on that, we did have some
4 members who wanted us to invest more heavily in
5 marketing and we had those who wanted us to be cautious,
6 because for clarity, the assessments are taxes on the
7 industry themselves, so that means the handlers and
8 producers are taking money out of their own pocket
9 putting it forward to marketing.

10 And as Jed outlined, we have had a series
11 of very challenging years since Covid, and so our folks
12 have struggled, and so that's why I believe we have this
13 disparity within the committee about exactly how much to
14 put forward on marketing. However, as the votes will
15 show and the minutes from our meetings, it is an
16 overwhelming majority that support us moving forward
17 along this path and increased presence in marketing.

18 Q. The minutes that you're referring to, do you
19 have those here available?

20 A. I imagine that we could quickly get them. I
21 don't have them printed out though. I would need to
22 fire up the computer, but yes.

23 Q. During these meetings where the members were
24 discussing the proposals, what outreach, if any, was
25 conducted to the industry or to the broader community?

1 A. So I would say on the marketing, we have done
2 with -- sorry.

3 With the marketing subcommittee for STOC,
4 we have often incorporated those who not only are still
5 on the committee, but those in the industry participate
6 and so they have been aware of these issues and they've
7 had -- they've been aware of this goal to make changes
8 and they've had opportunity to submit.

9 With regards to the academia -- or I'm
10 sorry, with regards to public member wanting to include
11 folks like academia, this more comes from an organic
12 sense of during the committee, we often look around and
13 we talk about certain subjects and go, man, it would be
14 really great if we had a seed person here to tell us
15 about this or it'd be great if we had a professor to
16 tell us about this, and so we have invited them as guest
17 speakers.

18 And then regarding the -- sorry, let me
19 make sure I stay on point.

20 And then regarding termination, so that
21 has obviously had a tremendous amount of outreach
22 because during those years we had to do an education
23 campaign on why we were doing a second referendum. And
24 so we received a lot of comments not just from
25 committee -- not just from the seated STOC members, but

1 from the industry as a whole.

2 Q. And how did the committee incorporate that type
3 of feedback that you received from the broad industry
4 and into the proposals that are being recommended today?

5 A. It would be tough to speak to exact situations,
6 but overall over those -- over the years from 2018 to
7 today, we have continued to discuss those during the
8 meetings. We have made sure and under the great
9 guidance of USDA and personnel that have been at those
10 meetings, we have been sure to breach those points
11 during conversation and discuss them thoroughly, or to
12 at the very least ensure that the person of concern --
13 or the person who brought the concern up had an
14 opportunity during meetings to discuss and present their
15 point of view.

16 Q. Thank you.

17 A. That's also why the average time for a meeting
18 has gone from an hour to two and a half hours. I can
19 see smiling and nodding heads in back.

20 Q. Okay. So the notice of hearing shows that the
21 committee voted on the proposals recommended today on
22 August 2024.

23 After all the committee deliberations that
24 have taken place over the three years that you have
25 stated, what were the outcomes of those at that, at that

1 meeting in August?

2 A. I would need to look at the minutes, but from
3 memory, I believe that -- in that August 2024 meeting,
4 we presented all four of the points for consideration
5 and all four received a positive supporting vote
6 unanimously to move forward.

7 Q. Okay. Turning to the proposals. For the
8 record, can you describe in general terms what changes
9 are being made under proposal number one, what will the
10 amendments do? And proposal number one in the notice of
11 hearing is to lower the referendum threshold?

12 A. Right. So what it will do is it will, number
13 one, it will align the South Texas onion marketing order
14 with the other commodity marketing orders that we have
15 seen, which is that it does not specify a, a -- oh, I
16 can't think of the word for the majority --
17 supermajority. Thank you. It does not specify the need
18 for a supermajority for continuation.

19 What we are doing is we are changing or we
20 are proposing a change in the wording in the marketing
21 order, which basically indicates a 51 percent needs to
22 support.

23 So as I identified in my testimony, in the
24 2014 and the 2020 referendum we had a challenge because
25 we got over 51 percent, but we didn't get to 67 percent

1 it, and was mostly due to low participation and low
2 turnout.

3 And so as a result, we then had to do a
4 second campaign. We had to really increase awareness.
5 My folks had to literally go to every single
6 grower/producer we were aware of a couple times and
7 ensure that they were aware of the vote and they
8 understood how to participate in the vote. And
9 following the second referendum in the both cases we
10 were able to get over the 67 percent.

11 Our proposal here that -- first off, that
12 takes an incredible amount of resources to do a
13 referendum, not just from our seat, but also from yours.
14 And so our position is that rather than go through that
15 process again in which we are still getting over 51
16 percent, let's change marketing order, let's be more
17 reflective of what the rest of the industry participates
18 in and what the rest of and market orders are presented
19 as so that way we are also going to have less confusion
20 when we reach a continuation vote in the future.

21 Q. Okay. To clarify, the amendment will reduce
22 the current threshold from two-thirds --

23 A. Correct.

24 Q. -- to a simple majority which will be more than
25 50 percent?

1 A. Yes, ma'am.

2 Q. Based on your testimony, you stated that the
3 last two scheduled continuance referendum, the two
4 initial referendum conducted under the marketing order
5 did not meet the two-thirds threshold; is that correct?

6 A. Yes, ma'am.

7 Q. Can you tell us when was continuance referenda
8 added to the South Texas marketing order?

9 A. When was what added? I'm sorry.

10 Q. Continuance referendum requirement, the
11 provision that you conduct the continuance referendum
12 periodically for every six years, do you know of that?

13 A. Yeah, it was when we changed the assessment
14 rate for the first time, and I will want to say it was
15 at -- so I'm going to say it was probably 2009 or 2010.
16 I would need to go back to check.

17 Q. Okay.

18 A. Unless I can -- can I phone a friend here or
19 turn to the audience or do I need to go ahead and check.

20 ADMINISTRATIVE JUDGE CARLOS: No, I don't
21 think we need to do that.

22 THE WITNESS: Okay. All right.

23 ADMINISTRATIVE JUDGE CARLOS: Roughly
24 2009, 2010. It's not like the TV show, right, where you
25 can call a friend.

1 THE WITNESS: Right. Right.

2 Q. (By Ms. Eankey) We can verify that later?

3 A. Yes, ma'am. Yes, ma'am.

4 Q. Okay. So to clarify, how many continuance
5 referendum have been conducted since this provision was
6 added to the marketing order? How many scheduled that
7 was supposed to happen continuance referendum?

8 A. Twice. So basically both times, we had to
9 execute the second one. We had to execute the second
10 referendum to get every that 67 percent because of low
11 participation.

12 Q. So to clarify there two scheduled initial
13 referendum?

14 A. Yes.

15 Q. And there were was another conducted afterwards
16 for both those two instances?

17 A. Yes, ma'am.

18 Q. Okay. So two scheduled and two repeated?

19 A. Two scheduled and both repeated, yes.

20 Q. What is your understanding as to why these
21 initial schedule referendums failed?

22 A. So as I stated it was low participation, lack
23 of awareness. One was because of Covid. And so at the
24 time ballots were required to be mailed and basically
25 received. We had growers weren't receiving physical

1 mail due to their concerns from Covid.

2 So we actually, and I thankfully, in
3 corporation with USDA were able to introduce an
4 electronic voting ballot for the second referendum,
5 which was incredibly helpful in getting more
6 participation.

7 Q. Okay. In your previous testimony or statement
8 you state that the number of producers and handlers have
9 declined in the industry.

10 Did the decline contribute to these
11 referendums failing?

12 A. No. Would you like me to elaborate on that
13 answer?

14 Q. Yes, please.

15 A. Yeah. So the decline has largely been
16 affiliated with the changes in the industry basically
17 cost of production and lack of return.

18 So what we have seen is that over the
19 years as Jed Murray testify the cost of production has
20 increased, whether it's been inputs, whether it's been
21 labor, whether it's been the general status of the
22 market or competition. And so what we have seen is that
23 it has become harder for the producer and the handler to
24 reach that break even or profitability point as a result
25 had had to transition out of farming and agriculture but

1 transitioning into other crops.

2 And so what we have seen then is a
3 consolidation has happened within certain handlers. The
4 growers still remain largely -- they still voters and we
5 have had just fewer.

6 Q. So there's fewer voters in the industry in that
7 consolidation has that affected the voter turnout in the
8 continuation of referendum?

9 A. I would say from 2014 to now, no.

10 Q. So what factors may have contributed to the low
11 voter turn out in the referendum?

12 A. So I would say that it's -- it's, number one,
13 lack of awareness. Even though we put out e-mails and
14 fliers and phone calls and notices, it still requires
15 somebody to actually go to the mailbox, look for the
16 ballot, fill it out and send it in. And so that
17 participation has required a lot of activity from our
18 part as STOC to get those folks to submit those, those
19 fliers -- or I'm sorry, those ballots.

20 And I would take it a step further and say
21 we have a lot of producers and handlers who are very
22 active in the committee in the activities, but we also
23 have a lot that are not. While they might be
24 appreciative of what it is that we do, they generally --
25 they generally don't become involved in what the

1 committee's activities are.

2 Q. So how did you determine that these segment of
3 these group of producers that are inactive or were
4 unfamiliar or were unaware of the referendum process?
5 Is this something that you were able to discover during
6 your outreach or did they speak to you specifically?

7 A. Both. So in, in the outreach, obviously, we
8 had to deploy the entirety of the TIPPA team to
9 participate on this to get the participation that we
10 needed, and so, yes, I would take a lot of phone calls.
11 Also for my team encountered a producer or handler who
12 had questions, and it was beyond the scope of their
13 understanding and I will take that phone call as well to
14 facilitate those conversations.

15 But, yeah, largely what we found is that,
16 especially with 2020, we had a lot of -- we had a lot of
17 especially the producers who said they weren't even
18 aware that the ballot had arrived the first time. And
19 so we went through a very, very tedious effort of
20 re-updating the mailing list which is still a challenge
21 that we have and we are hoping that is going to be one
22 of the next changes we recommend to the marketing order
23 next few years for us to better collect the mailing
24 addresses for our producers.

25 Right now the marketing order is written

1 in such a way that producers are not actually required
2 to submit information, only handlers are. So that's why
3 we did not have a very thorough mailing list of our
4 growers -- producers.

5 Q. So from your perspective, does the low voter
6 turnout not necessarily mean that there's opposition to
7 the marketing order but more so that these growers are
8 just unfamiliar and unaware?

9 A. That would be correct. And too to substantiate
10 that, I think that's reflected in all four of the votes
11 where you always over the 51 percent, just need to get
12 to the 67 percent because in a low turnout all it takes
13 is one vote or two votes and all of a sudden you're not
14 reaching 67 percent and you have that low turnout.

15 Q. Okay. So as you stated despite that meaning
16 that two-thirds threshold those -- the initial
17 referendum still passed, not passed, but it still
18 exceeded 51 percent for a simple majority in favor of
19 continuance?

20 A. Yes, ma'am.

21 Q. Do you know what the exact percentages were for
22 those initial referendums?

23 A. Those figures were not shared with me, as far
24 as I am aware. I imagine though that is information
25 that we could request from the USDA office since that's

1 where the ballots are sent.

2 Q. We can verify that?

3 A. Yes, ma'am.

4 Q. Are you aware at any time when the referendums
5 failed that USDA moved forward with termination of the
6 Marketing Order?

7 A. Yes, ma'am, that did happen in 2020.

8 Q. And what were the results of that rulemaking?

9 A. I -- I got to go back in time here. The
10 Marketing Order was terminated for several months. I
11 believe it included a month of while we were in season.
12 It did depend what we were having in the past at that
13 time. Obviously saw an increase in number twos in the
14 marketplace, which, to be honest with you, it wasn't --
15 wasn't the worst case scenario because in 2021 we had
16 the freeze and we didn't have a lot of production anyway
17 and so folks were able to sell some of the twos. At the
18 time the market was very much in need of those.

19 It was such a short time while the Order
20 was in place. I'm trying to think if there were any
21 other meaningful impacts.

22 AUDIENCE MEMBER: (Inaudible.)

23 THE WITNESS: Good point.

24 A. So, I.

25 ADMINISTRATIVE JUDGE CARLOS: Just for

1 future, make sure to get -- it's good information from
2 the audience, but usually -- it's not bad, but we can
3 take a break or you can further testify, but that --
4 anyways, that's the proper way to do things. It's
5 informal here and it's -- and they're correct, right,
6 and it refreshed your recollection.

7 THE WITNESS: Yes, it did. Thank you.

8 A. And so as my memory was refreshed, Mexican
9 onions under the Marketing Order required an inspection,
10 meaning that the onions have to achieve a U.S. Number 1
11 quality prior to entering the marketplace. That is
12 important because it impacts the overall supply, which
13 ultimately determines the value of onions in the U.S.
14 marketplace. Without that inspection, the onions can
15 come in of any quality type which introduces additional
16 supply, and as additional supply enters the market, it
17 can draw down prices.

18 ADMINISTRATIVE JUDGE CARLOS: I got a
19 question. That's what the twos, right, they are low
20 quality?

21 THE WITNESS: That is correct.

22 ADMINISTRATIVE JUDGE CARLOS: Makes
23 sense.

24 THE WITNESS: We have a lot of different
25 terms. The technical terms is calls. I think you throw

1 away or call out. But there is market for Number 2
2 onions. They are great for food banks and for
3 processors; however, they also have a tendency to end up
4 competing with Number 1s, which is why it's so important
5 to keep the 2s out to further strengthen our market.

6 ADMINISTRATIVE JUDGE CARLOS: Thank you.

7 Q. (By Ms. Eankey) Okay. The rulemaking to
8 terminate the Marketing Order was the process of
9 terminating it, and it's my understanding that that
10 rulemaking was withdrawn.

11 How -- how confident are you in your
12 recollection of the termination rulemaking at that time?

13 Do you recall when USDA conducted the
14 second referendum during that process, right, and you
15 said that you had to conduct extensive outreach and
16 awareness during the second referendum in order to meet
17 the two-thirds threshold?

18 A. Yes, ma'am.

19 Q. From your perspective, what are the effects
20 positive or negative on the committee members and staff
21 have of having to do that level of outreach each time
22 when USDA conducts a referendum?

23 A. Let me start with the positive. There was one
24 positive and that we got to build a great list of
25 updated e-mail addresses, phone numbers and mailing

1 addresses for all the producers, because, again, we
2 don't -- we -- the Marketing Order doesn't require the
3 producer to provide information, so we don't have a lot
4 of that unless it's voluntarily given.

5 Because of our outreach we were able to go
6 out ask and develop a great list. That's probably the
7 only pro.

8 The cons were that we had to stop all of
9 our other activities to be dedicated to this outreach.
10 So that meant we were focused on phone calls, we were
11 focused on people getting in vehicles and driving. We
12 were focused on meetings. We were focused on having
13 neighbors both e-mail and physical mail.

14 And so that is an effort in which we have
15 to basically had to press pause on our other activities,
16 things like marketing or research and development,
17 our -- our TIPA activities, all of that has to stop so
18 we could focus on these things. So that is very
19 impactful to a small office like ours.

20 At the time in 2020 we would have had six
21 people on staff, two of which were part-time. And so
22 basically I was having to divert the entirety of our
23 staff to this outreach effort.

24 Q. Is it your perspective that lowering the
25 continuance referendum would alleviate the need to

1 conduct further outreach while still representing the
2 industry support for the marketing order?

3 A. I don't -- I -- to be clear, no, I think there
4 still needs to be outreach but not at that level. I
5 mean, that was the level where we literally called a
6 handler and said, hey, we need to know who your growers
7 are, can you send them to me. Okay. Can you schedule a
8 time, we will get in the car, drive over, have a meeting
9 with them explain what the -- you know, explain why they
10 need to participate in the referendum or answer any
11 questions they have, not to influence the vote but just
12 to explain what we're doing and why. And so that takes
13 a lot of time and coordination, not just with us, but
14 with the handler.

15 So that's a very different kind of
16 outreach. The kind of outreach that we would be doing
17 if there was 51 percent threshold, right, because that
18 outreach is more there are fliers, here is the mailers,
19 here is the town halls which we had, and, you know,
20 maybe a few phone calls. But not to that effort where
21 we are literally trying to sit down with every single
22 one of our producers and handlers to ensure
23 participation.

24 Q. So to alleviate the need for excessive
25 outreach?

1 A. There you go. That's a great way to sum of my
2 two minutes away.

3 Q. So in recommending this proposal, did the
4 committee evaluate the continuance referendum
5 requirements in other marketing orders?

6 A. Yes, ma'am.

7 Q. Could you tell us how many marketing orders
8 include continuance referendum requirements?

9 A. I would not know that.

10 Q. Is it your understanding that most marketing
11 orders have continuance referendum provisions?

12 A. Yes, ma'am.

13 Q. You also stated that there were other marketing
14 orders that operated under a simple majority standard.

15 Do you know which marketing orders those
16 are?

17 A. Yeah. So we looked -- we looked principally at
18 the other onion marketing orders. And so, for example,
19 the Vidalia onion order or Georgia onion order, I
20 believe it's called, as well as the -- I always get it
21 wrong, but I think it is Eastern Oregon Washington is
22 the term for the other marketing order as well oversees
23 onions, we look at both of those and those two require a
24 majority.

25 I have notes for other orders as well. I

1 believe it was an apple and are a cranberry order, but I
2 would have to go back to confirm the language that we
3 looked at as a committee for examples.

4 Q. Okay. But you are aware that there are other
5 marketing orders that do have simple majority standard?

6 A. Yes, ma'am.

7 Q. In your testimony you stated that lowering the
8 threshold to a simple majority would be more efficient
9 and produce outcomes that are better understood.

10 Can you explain what you meant by that?

11 A. Absolutely. So during that process of
12 excessive outreach, we would have to explain to
13 producers and handlers why we were doing the second
14 referendum. And it was very -- I think it was difficult
15 for some of the producers and handlers to understand why
16 we had to get to a supermajority as opposed to a simple
17 majority. And we, you know, as representatives of the
18 Marketing Order had to say, hey, look this is what's in
19 the Marketing Order, this is the way it's written and we
20 have to follow all these rules.

21 The why it's here, as testified to you we
22 are not certain. There are notes when the Marketing
23 Order was created, you know, in the 60s. And, frankly,
24 the folks who where around at that time were not in a
25 position to tell us. But the folks that were closest to

1 it also shared that they had no knowledge.

2 Q. Okay.

3 A. Does that answer your question? I think there
4 may have been two parts to your question.

5 Q. Why it would be more efficient and produce --
6 well, you explained why it would be better understood is
7 because you said that they did not understand why it was
8 at two-thirds already.

9 A. Correct.

10 Q. Why would it be more efficient to lower the
11 threshold?

12 A. As we talked about, the amount -- the amount --
13 well, two reasons actually. One, because of the amount
14 of outreach and personnel and resources that is
15 dedicated to only doing one as opposed to referendum
16 every time.

17 Also, it would be efficient for ensuring
18 the continued support of producers and handlers to know
19 that the Marketing Order is being run efficiently.
20 Because in their perspective it could be seen that there
21 was transparency issues or something's going on if there
22 needed to be a second referendum twice in a row like
23 this.

24 Q. And from your perspective and the outreach that
25 has been conducted on behalf of the committee, is it

1 your understanding that the South Texas onion industry
2 would support lowering the continuance referendum to a
3 simple majority?

4 A. Yes, ma'am.

5 Q. And in general if this proposal was to be
6 approved, what would be the expected outcome?

7 A. That we only need to do one continuance
8 referendum at the time rather than two.

9 Q. Turning to proposal number two, which is to
10 expand research development and to add marketing
11 promotion, including advertising.

12 Could you explain what are the changes
13 that are being proposed as far as what would the
14 amendment be in the Marketing Order?

15 A. I'm sorry. Do you want me to read the
16 language or do you mean the purpose?

17 Q. I need -- do you have the language available?

18 A. I don't, but I imagine I can reach over and
19 find it in one of those documents.

20 MS. CHILUKURI: Exhibit 1 is the notice
21 of hearing.

22 THE WITNESS: Give me a second.

23 ADMINISTRATIVE JUDGE CARLOS: Exhibit 1?

24 THE WITNESS: It doesn't have Exhibit 1
25 on here.

1 A. Okay. Our position is to revise Marketing
2 Order 959, Section 4.8 to add marketing promotion,
3 including paid advertisement, and to provide the funds
4 collected under the Marketing Order may be used to
5 conduct research and development and marketing promotion
6 activities.

7 Q. Is that the notes of hearing that you're
8 reading from?

9 A. No, ma'am. This is the proposed rules from the
10 Federal Register that I am reading from.

11 MS. McMURTRAY: That's the notice of
12 hearing.

13 A. I apologize. It is the notice of hearing.

14 Q. (By Ms. Eankey) If you can refer to the
15 regulatory tax section. I don't know if you'll be able
16 to locate it where it actually shows the amendment
17 that's being made to the marketing order.

18 THE WITNESS: Your Honor, I'm going to
19 stand up and ask her to point me at it.

20 ADMINISTRATIVE JUDGE CARLOS: Just at the
21 bottom of the paragraph if you go down right there is it
22 revised to add. Is that what it is?

23 THE WITNESS: That's the part that I
24 read. So would you like me to reread it?

25 ADMINISTRATIVE JUDGE CARLOS: Please

1 stand, yes, and ask her to point it out.

2 THE WITNESS: Okay. No problem.

3 ADMINISTRATIVE JUDGE CARLOS: Because I
4 don't know where it is either.

5 THE WITNESS: So what I'm looking at is
6 on page 2881, the first column about a third of the way
7 down, Proposal 2: Add marketing promotion authority,
8 including paid advertising.

9 ADMINISTRATIVE JUDGE CARLOS: Yes.

10 THE WITNESS: The full section reads:
11 Under the current Order, the committee has authority to
12 conduct production and market research and development
13 projects. The Committee is proposing to expanding its
14 authority to include both marketing promotion and paid
15 advertising activities. The Committee believes this
16 expansion would broaden brand recognition, increasing
17 both sales and consumer demand. This proposal would
18 expand research and development authority to include
19 marketing promotion and paid advertising.

20 The amendment proposed is as follows:
21 Revise 959.48 to add marketing promotion, including paid
22 advertisement and to provide that funds collected under
23 the marketing order may be used to finance research and
24 development activities.

25 Q. Now, could you read Section 959.48, research

1 and development. It's on page 2882.

2 A. There it is. The section reads: 959.48,
3 research and development. The committee, with the
4 approval of the secretary may establish or provide for
5 the establishment of production research, marketing
6 research, development projects and marketing promotion,
7 including paid advertising, designed to assist, improve
8 or promote the marketing distribution consumption or
9 efficient production of onions. The expenses of such
10 projects shall be paid from funds collected pursuant to
11 this part.

12 Q. Thank you.

13 A. Yes, ma'am.

14 Q. Now, can you briefly explain what problem or
15 issue is this particular proposal intended to address?

16 A. Right. So currently the marketing order does
17 not allow for paid advertising. In fact, it
18 specifically says no paid advertising. This will
19 address that.

20 Q. And what is the expected outcome if this
21 proposal is approved in the amendment?

22 A. So the expected outcome is that we will be able
23 to reach new consumer channels. At current as was
24 shared by Mr. Murray, we are largely -- we are largely
25 doing marketing through our own social media feeds. The

1 problem with that is we are only advertising to folks
2 that already know about Texas 1015s or those that are
3 very close contact to those that know, so that is a
4 challenge in us reaching new consumers in large scale.

5 By doing paid advertising we'll be able to
6 place marketing education, marketing awareness,
7 et cetera, so forth, in other publications. We will be
8 also be able to also place them in other places outside
9 of the already knowledgeable consumer -- consumer
10 placements or consumer locations that we have
11 identified. So this will allow us to enter and
12 entertain new markets.

13 Q. Are you aware -- has the committee previously
14 considered expanding its authority to include marketing
15 and promotion before?

16 A. I am not aware, but I can tell you that this
17 has been -- this is what started our conversation to
18 make changes of the marketing order back in 2018 was the
19 desire to pursue paid advertising.

20 Q. Turning to Proposal Number 3, Contribution
21 Authority. Can you read 959.4, Contributions, what is
22 the amended language? Can you read that into the
23 record?

24 A. Yes, ma'am. To confirm, that is the language
25 on page 2882, correct? Okay. .6, add 959.44 to read as

1 follows: Subsection 959.44, Contributions. The
2 Committee may accept voluntary contributions. Such
3 contributions may only be accepted if they are free from
4 any encumbrances or restrictions on their use and the
5 Committee shall retain control of their use. The
6 Committee may receive contributions from within and
7 outside of the production area.

8 Q. What problem is this proposal intended to
9 address?

10 A. Right now the language is not wide enough. For
11 example, it does not include outside the production area
12 sources. As a result, this makes STOC ineligible for
13 grants.

14 Q. Does the committee currently have contribution
15 authority?

16 A. Yes, but it is limited to producers and
17 handlers.

18 Q. The committee can currently accept voluntary
19 contributions from outside sources?

20 A. No, not from outside sources. Only from
21 sources within the committee, hence producers and
22 handlers. So for example, we can't accept funds from
23 state government, federal government, local government,
24 other advertising opportunities, good samaritans who are
25 not part of the committee. We are limited in that the

1 language is so written that only those who are part of
2 the industry are able to contribute to the orders
3 marketing efforts.

4 Q. Okay. And this proposal would allow the
5 committee to accept voluntary contributions from outside
6 sources which is an authority that the committee does
7 not currently have?

8 A. Yes, ma'am.

9 Q. Have there been instances in the past where the
10 committee when there were outside funds available either
11 from state or local sources and the committee was not
12 able to accept those funds?

13 A. Yes, ma'am.

14 Q. Can you name any one situation or grant in
15 particular that had to be rejected?

16 A. Yes, ma'am. The USDA specialty crop block
17 grant.

18 Q. When the committee can't accept funds such as
19 these, what happens to those funds? How are they
20 typically used within the industry?

21 A. Right. So -- bear with me because it's been a
22 long answer.

23 So we have attempted to utilize those
24 funds in other ways. For example, TIPPA was able to
25 accept the second special crop block grant that we

1 applied for because we changed the application. STOC
2 served as an adviser.

3 So the difference is TIPA ultimately got
4 to make the decision on the direction for marketing for
5 Texas onions at that time and STOC only was able to
6 provide adversarial input, not direct direction of the
7 marketing.

8 Q. And if approved, how would the addition of
9 contribution authority impact the committee's ability to
10 engage in research and possibly promotional activity?

11 A. It would change from STOC being an advisor to
12 STOC being the director -- of the direct of where those
13 grants will be applied and why.

14 Q. Why is that important?

15 A. That's important so that way the voice of the
16 committee is executed.

17 What's happening is that currently the
18 STOC has to have -- can only provide recommendations to
19 the entity who actually has the grant. We have been
20 fortunate in the sense that TIPA is obviously listening
21 to all those recommendations so TIPA followed. But
22 there's no guarantee in the future that TIPA will always
23 manage STOC. And so as a result, how would STOC ensure
24 the quality of the marketing or ensure their voice is
25 the voice that is heard and directed for marketing

1 efforts such as that that focus only Texas onions. This
2 is to future proof the marketing desires of the South
3 Texas onion.

4 Q. Okay. And you stated that TIPA currently
5 accepts those funds and conducts that research.

6 From your perspective as the TIPA
7 president, how would this amendment affect the
8 relationship between TIPA and the committee?

9 A. It would not affect us because it essentially
10 the same staff is managing and TIPA is using a hundred
11 percent of the recommendations provided by STOC to guide
12 marketing activities.

13 But, again, TIPA is currently managing
14 STOC, but it is year to year. So there's no guarantee
15 that in any future year TIPA continues to manage STOC.
16 So that's not to say that in the future, you know,
17 something might happen to TIPA and we have to go a
18 different direction, STOC then has to pursue someone
19 else, that entity does not have the resources or the
20 marketing capabilities as STOC will again just be in the
21 position of being an adviser rather than director of
22 that said project.

23 Q. Turning Proposal Number 4, which is the
24 addition of the public member and alternate member seat.

25 A. Okay.

1 Q. If you could -- so if you can just describe in
2 general terms --

3 A. Oh, okay.

4 Q. -- in general terms what this proposal would do
5 as it's before the committee?

6 A. Yes. So right now the committees is seated
7 only producers and handlers. So that means you have no
8 outside voice which has a vote.

9 At times our committee discusses topics
10 which require outside expertise. Often that requires
11 that we have another meeting to bring in said subject
12 matter expert.

13 Having people on the board who could be
14 subject matter experts but who are not producers and
15 handlers would be valuable in, first off, increasing and
16 ensuring the quality of the conversation around that
17 topic at the time it is brought up would be addressed.

18 It would also give us the -- it would also
19 give us the impact of having someone else who has
20 expertise immediately outside of the production and
21 handling, which is important because they can provide us
22 a point of view or perspective that we may not have
23 being so close to production and handling of the Texas
24 onions.

25 Q. Okay. So for clarification, there are times

1 when the committee is discussing a topic in relation to
2 the industry that would require outside expertise, and
3 the addition of this public member would ensure that
4 that knowledge is available to the committee?

5 A. And that that knowledge has a weight in driving
6 the conversation as well.

7 Q. How would adding a public member seat
8 strengthen transparency and reinforce the public's
9 confidence in the committee's decision-making?

10 A. Excellent question. What that does is by
11 opening this up to a public member, it gives us the
12 opportunity for folks who are adjacent but dependent on
13 the business of Texas onions to have an opportunity to
14 drive the direction of the industry's marketing and
15 research efforts.

16 For example, seed chemical, academia,
17 transportation, all of these folks exist in an ecosystem
18 around our industry and they are dependent. As I was
19 referring to earlier, they are also subject matter
20 experts in other sectors of business which help drive
21 the success or failure of the Texas onion industry.

22 We would be able to create transparency by
23 allowing those folks to come in and be a part of
24 conversations that we have as STOC, which not only helps
25 them influence their decision and understanding of Texas

1 onions, but also then gives us, as we were saying, paid
2 advertising, it gives us the ability to reach other
3 parts of the community who we may not reach or have as
4 part of the conversation for STOC by now including them
5 on the board and the decision-making process.

6 Q. So is it the committee's intention that this
7 new public member ultimately be allied with the
8 industry?

9 A. That would be our goal, yes.

10 Q. Why is it important that this person be allied
11 rather than just a general member of the public, for
12 example, just a consumer who eats onions?

13 A. That's a great question. I'm going to try to
14 keep it as brief as possible.

15 First and foremost is because of the
16 nuances of the industry. As Jed pointed out, we have
17 seasonal challenges, we have international competition,
18 we have domestic competition, we have a variety of
19 inputs which impact production overall. We also have
20 very specific directions in terms of what it is that the
21 onion committee is trying to achieve.

22 And so having some understanding of the
23 factors which influence those decisions was going to
24 help make that committee member valuable, as opposed to
25 if you just had any Tom, Dick or Harry walk in off the

1 street, you are going to have to back up every single
2 conversation at the beginning for to then bring them
3 into a position where they could provide that subject
4 matter expertise that we would need.

5 Also, the other pieces that are public,
6 you know, we are looking more for voices around the
7 industry to help drive the conversation. The person
8 from the public would really, in my opinion, be limited
9 to being able to provide expertise in the marketing
10 realm. And while that could be valuable, I don't know
11 that that's valuable every single time.

12 Q. Okay. So what type of background or experience
13 would this person typically have?

14 A. In my opinion, any professional -- professional
15 experiences with onion producers or handlers would
16 likely be the minimum for their entry into STOC. And so
17 by saying something like that it basically means
18 professional experience, so they could be like the
19 sectors that I mentioned: Seed, chemical, et cetera.
20 However, that also opens it up to academia. It also
21 opens it up to finance. It opens it up to IT. It opens
22 it up to a world of other skill sets without
23 pigeonholing them. All we're saying is, hey, have you
24 had professional encounters with the onion industry that
25 afford you to have familiarity with the basics.

1 Q. Okay. And what are the specific qualifications
2 a public member must have that would be included in the
3 marketing order?

4 A. So I thought we were not trying to get that
5 specific in the proposal for the marketing order
6 language, but I know that the committee had discussed
7 wanting to ensure that it was someone who had at least
8 multiple years of that professional experience in the
9 industry, and that it was someone who resided within one
10 of the 35 counties of the marketing order.

11 Q. Okay. Can you read into the record for us
12 section 959.22, establishment and membership?

13 A. Yes. Subsection 959.22, establishment and
14 membership. The South Texas Onion Committee, consisting
15 of 14 members, eight of whom shall be producers and five
16 of whom shall be handlers and one of them public member
17 is hereby established. For each member of the committee
18 there shall be an alternate. Producer members and their
19 alternates shall not have a proprietary interest in or
20 be employees of a handler organization. The public
21 member and alternate shall not have a proprietary
22 interest in a producer or handler organization.

23 Q. For the record, can you explain what it means
24 for a public member not to have a proprietary interest
25 in the industry?

1 A. Absolutely. That means they cannot be
2 compensated directly by the producer or handler.

3 Q. And how would the committee distinguish between
4 someone ideologize in the industry and someone having a
5 proprietary interest?

6 A. We have a background statement process in which
7 any member of the committee must disclose any
8 affiliations they have with other producers or handlers.

9 Q. Can you walk us through how the public member
10 and alternate would be selected under the proposed
11 amendment?

12 A. They would be selected under the -- under the
13 existing nomination process, which is that the committee
14 comes together, we receive volunteers from the entirety
15 of the industry to participate in the nomination
16 subcommittee, and the subcommittee puts forward any and
17 all names. We qualify those names during that
18 subcommittee meeting and we provide said names from the
19 nominations subcommittee's work to the full committee
20 during a meeting, at which time the full committee then
21 reviews each of those candidates, taking the
22 recommendation from the subcommittee before submitting a
23 vote for those members to be placed on to the
24 recommendations for the secretary.

25 Q. Okay. And you mentioned characteristics such

1 as number of years when I was asking you about the
2 qualifications.

3 How do the bylaws factor into how the
4 committee would identify the most appropriate person to
5 fill the public member and alternate seat?

6 A. So at this time, the bylaws do not yet reflect
7 that. We would have to adjust our bylaws once the --
8 once, hopefully, the recommendation is approved, in
9 which case then we look at introducing some of that
10 language I proposed earlier, which is that they have a
11 professional -- professional experience within the Texas
12 onion industry. We would love to add a years of
13 professional experience to that subject but I know there
14 are restrictions we would have to be mindful of to
15 ensure that the marketing order is not so restrictive
16 that it does not allow for participation from the said
17 future public member.

18 Q. And that's something that the committee will
19 learn over time and adjust and add to the bylaws as time
20 goes on?

21 A. Yes, ma'am. We do an annual review and
22 approval of our bylaws. So in less than 12 months once
23 this is approved we'd be able to put forward the changes
24 to our committee bylaws which will reflect the new
25 public member.

1 Q. Okay. Have changes in the marketplace like
2 perhaps -- well, first let me ask you, has South Texas
3 onion market share increased or decreased over the
4 years?

5 A. This is a complicated question, so I'm going
6 to -- I'm going to try to boil it down.

7 I would say over the last ten years, South
8 Texas onions have received a lot of competition from
9 other onions which have occupied the retail space. So
10 this is in reference to the Vidalia onions continuing to
11 take a larger market share, followed by now the peruvian
12 sweet onions which are introduced into the marketplace
13 and have continued to exist in the marketplace for a
14 longer period of time.

15 So what this has done is it has created
16 pressure on Texas onions and we have, I would say
17 probably over the last ten years -- my producer friends
18 here can fill us in -- over the last ten years, we have
19 seen the retail space move away from giving Texas onions
20 four to five months on the shelf to giving us closer to
21 a month and a half to two months.

22 Q. And how has this impacted South Texas onion
23 growers?

24 A. You know, it is devastating them. You need a
25 mix of business in order to be successful year over

1 year. And when I say a mix of business, I'm talking
2 about different market channels, so that means you need
3 to be present in retail, you need to be present in food
4 service, you need to be present in wholesale
5 distribution, and really you need to be present in those
6 three at different percentages. But it's like the legs
7 of a stool, if you take one away, you're not going to be
8 as successful, you're going to fall down.

9 And so with retail only going down to a
10 month and a half or two months, that means fewer of our
11 handlers are able to be present in that marketplace
12 because the volume need is significantly less. As a
13 result, that means that percentage of the retail
14 business with which a handler would typically pursue is
15 significantly smaller, and it makes it much tougher for
16 them to make up those sales at the same volume and the
17 same prices over time in both the food service and the
18 wholesale marketplace.

19 Q. And how has this impacted the number of
20 producers in the industry?

21 A. It's tough to say how it's impacted the number
22 of producers. Minuses that it has had an effect on loss
23 of producers. We haven't seen a dramatic change in the
24 loss of producers over the last ten years, but over the
25 last 20 to 25 years we have really seen a drop in the

1 number of producers out there.

2 And to be clear, market loss is part of
3 it. The rise in production costs is a large piece, and
4 recently drought has been a significantly large piece in
5 impacting the availability of our producers. And I
6 suspect if the drought continues that would be the next
7 big factor in watching a number of our producers go
8 away.

9 Q. Has the pressures from competitive competitors
10 and the other challenges you mentioned, such as, drought
11 and the rise in the cost of production has that factored
12 into the committee's decision to add an allied public
13 member to the committee?

14 A. I would say for the purpose of adding an allied
15 member has -- has competition been what drove that? No.
16 I would say competition is what drove us to make the
17 suggestions for the grants for the marketing for paid
18 marketing obviously.

19 I would say what's driven us for the
20 public member is that we as the STOC are now talking
21 about so much more than just marketing in our meetings.
22 We are talking about all the aspects of the business and
23 how our committee can drive improvements, efficiencies
24 and, importantly, profitability into the Texas onion
25 industry.

1 Q. Did the committee look at other marketing
2 orders with similar organizations that already include
3 members of the public when making this recommendation?

4 A. Yes, ma'am.

5 Q. And how did that factor in the committee's
6 decision?

7 A. So it was very helpful in showing us the type
8 of language in the direction in which other committees
9 went when they considered public members.

10 Q. Okay. Do you expect the addition of a public
11 member to have any affect on small growers or packers
12 either positive or negative?

13 A. I think it would have a positive impact,
14 because, again, it's going to bring us a subject matter
15 expert that is outside of our producer and handler
16 community.

17 Q. How do you see the addition of a public member
18 potentially helping grower returns over time?

19 A. That's a tough one. But hopefully the right
20 subject matter expert will provide us the necessary
21 guidance to make the best decisions with the ultimate
22 decision always being that STOC is driving for increased
23 profitability of the industry.

24 Q. Did the committee consider any alternatives to
25 adding a public member seat?

1 A. We did, since the alternative would be to not
2 add a public member. We discussed it at length and we
3 continued to think that is the best direction, because
4 we are not seeing new entries into the producer or
5 handler category. And so if we look at where are we
6 going to get new ideas, it's going to have to come from
7 outside the committee.

8 Q. Do you believe the proposals that are
9 recommended today reflect the current needs of the
10 industry?

11 A. Yes, ma'am. And I would have take it a step
12 further. We still have other ideas and plans for what
13 could help us, but this is where we want to start.

14 Q. Is there anything else that you would like to
15 share today about the proposals?

16 A. Yes. I would like to just clarify some points
17 that I think go into the proposals, which is, number
18 one, that without marketing we will continue to lose
19 market share. I think -- I think that is very, very
20 clear.

21 We have seen the success of areas like
22 Vidalia Georgia where they were successful because they
23 were able to -- they were able to collect money from the
24 State government, as well as within their growers, and
25 that infusion really helped put Vidalia onions on the

1 spot. And so if you go to any of our community members
2 they'll tell you that that's really our biggest
3 competition is Vidalia onions, because they had such a
4 successful marketing program for so many years, that
5 that has really kind of become the -- the standard of
6 excellence at least for where we need to get our
7 marketing ad to be competitive and to regain that market
8 share.

9 As Jed pointed out, Texas onions we
10 start -- and that's something I want to address, it's
11 actually March through June is our marketing window. So
12 when we come online in March and start being present.
13 Vidalia onions come online at the end April. And so we
14 need to be able to have that effort to go out there and
15 show people, hey, Texas onions are really -- are not
16 only great, we're the right -- right profile, but we are
17 the truly sweet onions. And Georgia sweet onions and
18 Vidalia onions are the great grandchildren of the Texas
19 1015s.

20 And so we are -- yeah, so we are able to
21 share that message through paid advertising, create that
22 educational awareness among the national and
23 international buyer community, but we need the money to
24 do that.

25 And so again, I look at successful

1 campaigns like Georgia and Vidalia onions. I see where
2 we are growing at \$70,000 we just can't competent with
3 multi-million dollar marketing budgets.

4 MS. EANKEY: Thank you. I have no
5 further questions.

6 ADMINISTRATIVE JUDGE CARLOS: Okay. We
7 are going to take a break. Why don't we take, say, ten
8 minutes.

9 (Short break taken.)

10 ADMINISTRATIVE JUDGE CARLOS: Okay. So
11 we're back on the record. The witness remind you he's
12 still under oath, and we are going to take
13 cross-examination by Ms. McMurtray.

14 MS. McMURTRAY: Michelle McMurtray, for
15 the record.

16 CROSS-EXAMINATION

17 BY MS. McMURTRAY:

18 Q. I want to talk to you about the termination
19 provisions -- to the termination provisions just a
20 little bit. I know you talked about them a lot and
21 Ms. Eankey has brought a lot more of the information
22 out.

23 But can you just explain one more time
24 kind of how that process works, like, the voting and the
25 threshold needed for the continuance?

1 A. Sure. So the way that the voting for
2 continuation referendums works is that every six years
3 we are required to do a vote to ensure that the
4 producers and handlers want to keep the marketing order.

5 What happens in that time is we provide
6 all contact information we have for the number of
7 producers and handlers to USDA. USDA then provides
8 physical ballots by way of mail to all of these
9 producers and handlers.

10 What the committee does is during that
11 time we also begin an awareness campaign through
12 e-mails, physical mailers and phone calls, when
13 appropriate, to notify the entirety of the industry of
14 the upcoming referendum and its purpose. We do not
15 influence the direction of the vote. We make
16 information available. We also coordinate and hold town
17 halls during that time. We share the public notices
18 provided by USDA as well. We also ensure that our
19 publications or industry papers, so to speak, are
20 sharing that information as well so that way we are
21 reaching as wide an audience as possible.

22 Those votes are then mailed back into USDA
23 who then provides us with the outcome of the referendum.
24 I wasn't speeding on that. Excellent.

25 Q. Okay. And I believe that you testified that

1 one of the reasons that you submitted the majority for
2 the threshold is because there's been difficulty getting
3 to the two-thirds because of just people like aren't
4 checking their mail regularly like knowing about it; is
5 that all correct?

6 A. That is correct.

7 Q. Okay.

8 MS. McMURTRAY: We have something that
9 we're going to mark. I think it's Exhibit 9.

10 ADMINISTRATIVE JUDGE CARLOS: Okay.
11 Exhibit 9.

12 MS. McMURTRAY: We'll get it to you.

13 ADMINISTRATIVE JUDGE CARLOS: Okay.
14 Exhibit 9 is Section 959.84 entitled Termination. Got
15 it.

16 Any objection to Exhibit 9? No
17 objections. Okay. I think the witness needs one.

18 Q. (By Ms. McMurtray) Okay. I don't work for you
19 on the spot too much. But could you just take a minute
20 to just read it to yourself and then if you wouldn't
21 mind to read it into the record?

22 A. Yes ma'am. It reads: Subsection 959.84,
23 Termination, subsection D. The secretary shall conduct
24 a referendum within six years after the effective date
25 of this paragraph and every sixth year thereafter to

1 ascertain whether continuing -- continuance is favored
2 by producers.

3 The Secretary would consider termination
4 of this part if continuance is not favored by more than
5 50 percent of growers voting in the referendum or
6 growers of more than 50 percent of the volume of onions
7 represented thereby who during a representative period
8 determined by the Secretary have been engaged in the
9 production for market of onions in the production area.

10 Q. Okay. And is this language just a little bit
11 different than the language that you submitted?

12 A. I believe so. It's been -- to recall,
13 obviously, it was 2024 when we submitted the language,
14 so it's been a hot minute.

15 Q. Sure. And then I think -- with this language,
16 which is just a little bit different, would that achieve
17 the goal that if USDA were to amend the language
18 submitted slightly, would this achieve your goal of
19 making the referendum process easier?

20 A. Yes. And to be clear, we're not asking easier.
21 What we're asking for is a more effective process.

22 Q. Sure. And would it -- I guess I'll follow up
23 on that.

24 Do you think that outlining just that it
25 would make it clear to -- perfect, and just for the

1 record --

2 A. Yes, it would make it more clear.

3 Q. Okay. That's the only questions I had about
4 that. I was curious.

5 You I think called Valdalia onions the
6 grandchild of Texas onions. Did they come -- did they
7 come -- did that come -- did they variety stem from
8 South Texas onions?

9 A. Yes. Specifically they stem from the Texas
10 1015.

11 Q. Okay. And then are the Texas 1015 onions are
12 they sold all over the country?

13 A. Yes.

14 Q. Okay. Okay. Wonderful.

15 MS. McMURTRAY: That's all the questions
16 I have.

17 MS. CHILUKURI: Thank you. Rupa
18 Chilukuri for USDA. Can you hear me? Okay?

19 CROSS-EXAMINATION

20 BY MS. McMURTRAY:

21 Q. Thank you for your testimony, Mr. Galeazzi. I
22 have a few different questions for you. I just one
23 thing before we start with the questions. I just wanted
24 to know the ex parte considerations.

25 So I know people -- since the issuance of

1 notice and hearing to issuance of decision, we USDA in
2 the decisional role and you on the other side in the
3 industry we can't speak about substantive matters like
4 the merits of the proposals.

5 A. Okay.

6 Q. I wanted to reiterate that along so feel free
7 to talk to us about procedure. But if you have anything
8 that you want to get on the record, so, for instance,
9 with what you just said about Vidalia, I can't remember
10 if somebody had mentioned that during the break, but
11 make sure we use it when we do our decision minutes.

12 A. I understand.

13 Q. Okay. Mr. Galeazzi, you had mentioned that you
14 had meeting minutes, right, from different committee
15 member meetings. And would you be able to potentially,
16 if it's easy enough, to get it onto the record and get
17 those on the record some time today or during a break?

18 A. Yes, ma'am.

19 Q. Great. We would appreciate that.

20 And another thing, to even to get to this
21 point to the hearing, process to get to a hearing, I
22 believe you had to submit justifications --

23 A. Yes.

24 Q. -- to the USDA. Can you talk about what those
25 justifications are about what they said, what they did?

1 A. Sure. Let me begin by saying those
2 justifications were developed, discussed and cleared
3 through the committee, so they were not written by one
4 person with no one ever seeing them. We brought them up
5 during the committee I believe twice, I need to go back
6 to the minutes to look, in which we went through it as
7 an entire committee to, one, ensure that we were
8 capturing everyone's opinions; and, two, to confirm that
9 the information that we were providing was consistent
10 with what the committee wanted to achieve to begin that
11 process.

12 In terms of justifications, would you like
13 me to do a justification for each of the points or you
14 just want to hear about the generality of that process?

15 Q. For right now just the general process and we
16 ask again just for the minutes to the extent you have
17 those justifications --

18 A. Yes.

19 Q. -- and you'd like to enter them into the record
20 to support your decision, so I'll leave that your
21 discretion but feel free to enter those as exhibits.

22 With Ms. McMurtray just given to you
23 Exhibit 9, that's another thing that I want to follow up
24 on and ask, that if you need to discuss that with any of
25 your colleagues, feel free and we can recall you or we

1 can discuss later if you want to go into more
2 elaboration.

3 A. Since the justifications were developed for
4 that purpose, that is the intention of the committee
5 therefore this would be an execution of the will of the
6 committee to provide those justifications and the
7 minutes, so we will be sure to provide all of those as
8 soon as possible.

9 Q. Okay. Thank you. I appreciate that.

10 A. Absolutely.

11 Q. Okay. So let's talk a little bit about -- a
12 little bit more about continuance referendum.

13 So when they failed in the past, I guess
14 you're thinking that, that industry thinking was, no, we
15 don't want to terminate; is that accurate?

16 A. That is accurate.

17 Q. So say, say you do want to terminate, say you
18 get to the stage, no, this is not working for the
19 industry, how would that proposal Exhibit 9 if that goes
20 into effect, would that still effectuate that
21 termination? Could you still get to termination with
22 that language?

23 A. Yes.

24 Q. Okay. Can you elaborate on it a little bit.

25 A. Yeah. If we don't reach 51 percent and we

1 reach termination. Also, I believe and I would need to
2 look at the marketing order language, but I do believe
3 there is also a caveat that we could read the
4 termination -- we could withdraw or terminate the order
5 prior to the continuation as well if there was a series
6 of discussions and votes from the committee. Excuse me.

7 That said though, specific to this piece
8 that we're discussing, this language would allow us to
9 reflect that if there is not the 50 -- I'm sorry, if
10 there is not more than 50 percent support for continuing
11 the order, this language gets us to the position where
12 we would begin the withdrawal or termination of the
13 marketing order.

14 Q. Okay. And just for everyone's reference, I
15 think there are few copies of the Marketing Order 959 up
16 there, so if you have some language that you ever want
17 to refer to, Mr. Galeazzi or anyone else, you can
18 certainly do that.

19 A. Thank you.

20 Q. Great. So like you said, there are other ways
21 to terminate if the secretary determines, for instance,
22 this would not effectuate the declared policy of the
23 act, he or she can terminate; is that correct?

24 A. Yes.

25 Q. Okay. Great. All right.

1 So turning now to Proposal Number 2
2 relating to expanding the marketing authority and to
3 include paid advertising, had you ever -- I think
4 somebody asked this before, but just to clarify, had the
5 committee ever previously considered expanding its
6 authority to include marketing and promotion, including
7 paid advertising, to your knowledge, or to your
8 knowledge?

9 A. To my knowledge, no. With that said though,
10 I've only been over the marketing order since 2017, and
11 as I had clarified in my testimony, I participated in
12 the STOC infrequently between the years 2009 to 2017.
13 So there might have been a period before 2009 in which
14 it was discussed, but to my knowledge, from 2009 to now
15 there has not been. I think was the -- that was the
16 question, right, had there been?

17 Q. Yeah, to your knowledge.

18 A. Making sure.

19 Q. Yeah. Okay. Great. So can you talk about a
20 current authority that you have under 959.48, so what do
21 you do in terms of research and development, in terms of
22 marketing research and in terms of fellow projects?

23 A. Right. So as I shared earlier, we are limited
24 largely to marketing by way of only social media and our
25 channels. So even if we do, for example, like

1 restaurant week, we can't pay a restaurant to carry
2 them, we can't reward them from carrying onions. We
3 have to be very careful in how we position statements.
4 Excuse me.

5 We also have to be very careful in what we
6 support -- I'm sorry, in what we -- what we do pay for
7 and don't pay for because, again, we can't go into that
8 paid advertising.

9 So, for example, we can -- we can pay for
10 our banner and hang the banner up during restaurant
11 week, but we can't actually go out and advertise on
12 Facebook or we can't advertise to local eateries, we
13 can't advertise to local consumers by radio or news or
14 anything else to let them know Restaurant Week is
15 happening. The only way we can do that is by our social
16 media and asking that participants in the Restaurant
17 Week contest do that the same through their social
18 media.

19 Q. Okay.

20 A. So that's an example of limitation in the
21 marketing for research and development. We don't
22 necessarily have that same restriction; however, we
23 can't accept money for grants, and I realize that's
24 different. So, again, it puts STOC in a position of
25 only being an advisor, not the principal agent in

1 handling the grant or the direction of the grant.

2 Q. And you just talked about accepting outside
3 money. So do you feel like there is some kind of, there
4 could be a link between these two authorities.

5 A. One hundred percent, because there is grant
6 money available for marketing.

7 Q. So have you lost out on opportunities since you
8 don't have this authority currently in place?

9 A. Yes.

10 Q. And may have mentioned it through your
11 testimony, but do you mind repeating that.

12 A. Yes. The USDA specialty crop block grant would
13 be an example, there is money available for marketing
14 and some market development money as well, but STOC
15 cannot accept that money, nor could we accept USDA SCRI
16 money for things like research and development, because,
17 again, that is still a grant with outside money
18 attached, so STOC again cannot accept those grants. We
19 can only be an adviser to it.

20 Q. Okay. And you said SCRI, what does that stand
21 for?

22 A. I want to say it's Specialty Crop Research
23 Initiative.

24 Q. Okay. So we're sort of talking about both of
25 these authorities as it relates to marketing, promotion

1 and paid advertising and the voluntary contribution
2 line.

3 So, you know, as a consumer how would I be
4 affected by let's start with the marketing promotion
5 first and how would that help me, hurt me?

6 A. Well, so it would help you as a consumer
7 because you will get to learn about why Texas 1015s are
8 so awesome. It will also help you figure out where to
9 find Texas 1015s. Most importantly what it does,
10 though, is it introduces a consumer to a very specific
11 part of the onion category. Most consumers are not
12 familiar with the differences between the four varieties
13 of onions, the varieties being yellow, red, white and
14 sweet; awareness campaigns are what make that
15 difference.

16 However, as I mentioned earlier, our
17 awareness campaigns are limited to those who already
18 follow the Texas 1015 and STOC efforts. We are unable
19 without paid advertising at this time to reach larger
20 and outside market segments.

21 Q. So you mentioned the four different categories.
22 Silly question, what is sweet onion Texas one are they
23 white in color or --

24 A. So they're actually yellow in color.

25 Q. Oh, okay. Thank you.

1 A. Yes.

2 Q. So with the marketing promotion with the
3 addition of the marketing promotion, including paid
4 advertising, that's just authority to do this, right?

5 A. Correct.

6 Q. So that doesn't mean you have to do it if you
7 don't have the funds or you're not finding something
8 that you want to do; is that correct?

9 A. That is correct. To elaborate on that, STOC
10 has a marketing subcommittee who every year works on
11 just that year's marketing goals, objectives and plans.

12 And so to further elaborate on the
13 intention is, no, we do not have to pursue paid
14 advertising, but it is a tool available to that
15 marketing subcommittee to incorporate into their
16 marketing plans.

17 Q. Okay. So is there any downside to having a the
18 authority in place, I guess?

19 A. No, we are living in the downside right now,
20 which is that it limits, the ability it limits the
21 channels that we can participate in for marketing.

22 Q. Okay. So I understand what it could do. So
23 are you -- if you have this authority could you do, you
24 know, say you have something, say, Dante's onions, would
25 you be permitted to do that specific type of branded

1 advertising of this or is it more generic?

2 A. So to clarify, I am not a producer or handler.
3 I don't actually touch any of the onions.

4 No. This the objective of the paid
5 advertising is not for Dante to start running a company
6 nor is it for STOC or TIPA to participate in the actual
7 growing, selling, etc., of onions.

8 What we are doing is we want a paid
9 advertising tool as a resource for the marketing efforts
10 of the Texas onion industry so that way we can reach new
11 consumers outside of our existing capabilities.

12 Q. Okay. I see if you have that order -- if you
13 can refer to -- can you look at 9B9.950?

14 A. I'm sorry. Are you saying a lead.

15 Q. 959. I'm sorry.

16 A. I'm sorry. Are you saying 959.80.

17 Q. 50.

18 ADMINISTRATIVE JUDGE CARLOS: Is that an
19 exhibit or is it a separate exhibit or is it in one of
20 the exhibits?

21 MS. CHILUKURI: Your honor, I'm actually
22 referring to the order itself, so I didn't think I
23 needed it, statute. Regulatory -- I don't have copies
24 for you?

25 ADMINISTRATIVE JUDGE CARLOS: I don't.

1 MS. CHILUKURI: I'm sorry.

2 ADMINISTRATIVE JUDGE CARLOS: I'm sorry.

3 959.50?

4 MS. CHILUKURI: Yes. We're bringing a
5 copy right now, the order. I apologize for that.

6 THE WITNESS: Your Honor, to speed it up,
7 it is page 11 of 22.

8 ADMINISTRATIVE JUDGE CARLOS: Thank you.
9 And is this being marked as an exhibit, the Title 7 or
10 we're just using it as a reference?

11 MS. CHILUKURI: Just using it for
12 reference. If you prefer I mark it for an exhibit.

13 ADMINISTRATIVE JUDGE CARLOS: We'll do it
14 Exhibit 10 for identification.

15 MS. McMURTRAY: Okay.

16 ADMINISTRATIVE JUDGE CARLOS: Okay.
17 Page 11. Got it. 50.

18 MS. CHILUKURI: Thank you.

19 Q. (By Ms. Chilukuri) And Mr. Galeazzi, can you
20 tell me the name of that section .50?

21 A. Yes, ma'am. The subsection 959.50 is labeled
22 Marketing Policy.

23 Q. Okay. So would marketing promotion being paid
24 advertising if you all have the authority you decided to
25 do something with it, would it be discussed or mentioned

1 as part of that -- as part of the requirements under
2 959.50, the marketing policy?

3 A. Yes.

4 Q. Just trying to figure out how it works in
5 reality.

6 A. Yes, it would.

7 So to elaborate a bit, the marketing
8 policy is annually prepared for all of our members. It
9 is discussed during our committee. It is a, typically,
10 a recap of not only the marketing efforts that we have
11 pursued as STOC, it is also a recap of other marketing
12 efforts and outside factors that have impacted the
13 industry.

14 It is also the time at which we review
15 our, our industry size and expectations for the coming
16 year. So that's to say we begin to talk about the
17 acreage, the size, and if there are specific elements we
18 want to focus on with marketing for the coming season.

19 So the discussion following the market
20 policy largely helps shape the direction of the
21 marketing subcommittee's marketing plan. So there's a
22 lot of marketing in there, but each piece is a little
23 different.

24 Q. Great. Thank you.

25 So moving on to voluntary contributions

1 and discussing that a little bit more.

2 So I thought you had said earlier in your
3 testimony that producers and handlers can engage in
4 contributions. Do you mean to say that they pay
5 assessments?

6 A. So they're --

7 Q. Is that what you are talking about?

8 A. They do pay assessments.

9 Q. Okay.

10 A. However, the language is such that if we wanted
11 to do a marketing campaign it and exceeded the \$70,000,
12 we could ask our producers and handlers if they would
13 like to voluntarily contribute additional monies to
14 increase marketing activities beyond the assessment
15 levels.

16 Q. Or to increase research and development or
17 something else, you're saying?

18 A. Exactly. Yeah, I'm sorry. It doesn't have to
19 specifically be more marketing. Yeah, I apologize.
20 Yeah. So we can accept money only for producers and
21 handlers outside of the assessments -- I'm sorry, above
22 and beyond the assessments, but, again, it has to come
23 from the handlers or producers.

24 Q. Okay. Do you know which provision is giving
25 you that authority to do that that you're referring to?

1 A. Hang on just a second.

2 Q. Sure. And also while you're doing that, for
3 assessments, handlers are the ones who are assessed
4 though they may pass it on to producers; is that
5 accurate?

6 A. Yes, that is accurate.

7 So I believe it is 959.44, which is on
8 page 10 of Exhibit 10. No, I apologize. It is also on
9 page 11. No, it is not here. It goes from 959.43 to
10 959 --

11 ADMINISTRATIVE JUDGE CARLOS: Forty-two
12 is assessments.

13 THE WITNESS: We're looking for
14 contributions, so it's .44. So I -- well, I apologize.
15 It is not -- it is not there.

16 Q. (By Ms. Chilukuri) Well, 959.44, I think --

17 A. Is contributions.

18 Q. -- contributions and that's something we're
19 proposing to add now.

20 A. Oh, it doesn't currently exist.

21 Q. That's what I'm asking you, but that's my
22 understanding, correct?

23 A. Give me just a moment. I think so.

24 Q. It's an addition?

25 A. You are correct, it is an addition. We do not

1 currently have a contributions section.

2 Q. So maybe some instances where handlers are
3 doing advanced assessments perhaps or something else,
4 but really you're limited to your ability to accept, you
5 know, some -- like you said, good samaritan, I want to
6 give you some money, there's no authority to permit that
7 at this point?

8 A. Correct.

9 Q. Okay. Great. Would -- I'm just wondering if
10 contributions would they be discussed at all in the
11 marketing policy?

12 A. They would because they are going to augment
13 the activities that we are performing as a committee.
14 For example, research and development is often discussed
15 as part of that marketing policy -- not the marketing
16 plan, marketing policy, and then also we would discuss
17 the -- excuse me, we would also discuss the budget
18 levels from marketing at that time, because during that
19 are discussion from market policy it helps guide our
20 conversation for budget at that time as well.

21 Q. Okay. And related to the budget, I know there
22 is a reference to 959.43, accounting. So if you turn to
23 that in the order. Is that relevant or is that
24 connected at all to voluntary contributions?

25 A. If you'll give me just a moment.

1 Q. Yes.

2 A. So as I read it and understand it, I believe
3 that it does not discuss contributions. Is that the --

4 Q. I guess I'm wondering any finances or any
5 moneys that you receive, would you have to account for
6 them the same way that you account for your assessments
7 keep track of them --

8 A. Absolutely.

9 Q. -- internal controls, do whatever you have to
10 do?

11 A. Absolutely.

12 Q. Okay.

13 A. Would it be valuable to provide our account
14 controls document to this committee for purpose of
15 answering that question more fully?

16 Q. I will defer to you on that. I'm not even sure
17 what that is necessarily, but if you think it would be
18 valuable, yeah?

19 A. I think so. I believe the nature of the
20 question is will there be a transparent process to
21 ensure we're tracking where contributions come from and
22 go to, and to in a point, I can say yes. We have a
23 written accounting policy which is actually voted on and
24 reviewed every year as well by that by the STOC.

25 So, again, I can provide those as soon as

1 possible for entry into the minutes.

2 Q. Great. And with voluntary contributions, could
3 you use those funds for things that you couldn't pay
4 with assessments? So say you wanted to do some
5 lobbying, can you do lobbying with voluntary
6 contributions?

7 A. No, you may not. As STOC we have very specific
8 rules that we cannot participate in activities such as
9 lobbying.

10 Q. So things that are headed under the marketing
11 order, these voluntary contributions it doesn't give you
12 see the ability to use that money for other things?

13 A. Correct.

14 Q. Great. Thank you.

15 Now moving on, I believe to the last
16 proposal as it relates to public member.

17 If you could turn to Exhibit 1 and if you
18 could read into the record 959.26, the revisions you all
19 would like to make to that, if you could read that into
20 the record that would be great.

21 A. So I'm going to apologize. My documents are
22 not labeled. Which one is Exhibit 9?

23 Q. Nine, it's the notice of hearing.

24 A. Okay. And which part did you need me to read
25 959 --

1 Q. .26, which is on page 2882.

2 A. Excellent. So it reads Subsection 959.26,
3 Selection. The Secretary shall select members in
4 representative alternates from districts established
5 pursuant to Subsection 959.24 or Subsection 959.25, with
6 the exception of the public member and alternate member
7 who shall be residents of Texas, but may reside outside
8 the production area and shall be selected by the
9 Secretary in his or her discretion.

10 Selection shall be made as follows, but I
11 do not have the additional information on hand.

12 Q. Sure. Can you tell me about the decision to
13 make to proposal that the public members should be a
14 resident of Texas, but they could live outside the
15 production area?

16 A. Right. So we believe -- or sorry.

17 During the point at which the committee
18 was discussing the proposal for a public member which
19 should be reflected in the minutes, we were talking
20 about the type of public member we would like to and how
21 that person might provide the most value to a committee,
22 and it was very clearly discussed and, and unanimously
23 approved that we have someone from Texas.

24 We had originally wanted it to be within
25 the production zones, which are the southern 35 counties

1 of South Texas identified in the order. However, as it
2 was pointed out during that meeting, none of the
3 universities who provide research on Texas onions would
4 be able to participate, therefore, we would not have
5 access to the academia.

6 In addition, we would not be able to lean
7 on higher level experts within companies that provide ag
8 inputs. In discussions we recognized that those folks
9 who are operating, for example, say, like a seed
10 provider, they are typically distributor level folks
11 here in the 35 counties. But the folks who might have a
12 higher expertise might actually reside in Austin or
13 Dallas where the headquarters is.

14 So that was part of our reasoning in why
15 we decided the state of Texas, but not necessarily the
16 southern 35 counties.

17 Q. Okay. Thank you. Let's see.

18 And in taking a look at the order, I
19 was -- which I think is labeled Exhibit 10, can you
20 speak to 959.29. I believe that's called Acceptance; is
21 that right?

22 A. Yes, ma'am. I see it on page 7 of Exhibit 10,
23 Subsection 959.28, Acceptance. Would you like me to
24 read it?

25 Q. Is it -- I'm sorry. Is it .28 or .29?

1 A. .29, Acceptance.

2 Q. Okay. Great. And can you read it or
3 paraphrase it? I'm just trying to figure out does that
4 apply to a public member and the alternate?

5 A. It would. It basically says that if you are
6 selected you have to reply within ten days to confirm
7 the selection.

8 Q. Okay. The same thing with 959.30, I believe
9 it's Vacancies; is that right?

10 A. Yes, ma'am.

11 Q. Would that also apply to the members?

12 A. Yes, ma'am, it would.

13 Q. Okay.

14 MS. CHILUKURI: I think those are my
15 questions. Thank you very much.

16 THE WITNESS: Yes, ma'am.

17 ADMINISTRATIVE JUDGE CARLOS: All right.
18 Any other questions, cross-examination?

19 MR. HARMON: Yes. Couple of them.

20 CROSS-EXAMINATION

21 BY MR. HARMON:

22 Q. And would that also apply to 959.31.

23 A. Yes, it would.

24 Q. For the --

25 ADMINISTRATIVE JUDGE CARLOS: Just

1 identify yourself for the record.

2 MR. HARMON: Kerry Harmon.

3 Q. (By Mr. Harmon) You mentioned both continuance
4 referendums exceeded the 50 percent. Would we know in
5 those years what that percentage was?

6 A. No, sir, I would not. I do believe, however,
7 USDA has that information as it would be internal
8 information.

9 Q. Okay. Do you know if for additional outreach
10 or more, earlier outreach and more efficient outreach
11 would that affect the lower voter turnout?

12 A. I'm sorry. One more time.

13 Q. So you mentioned that there was lower voter
14 turnout in both of those referendums.

15 A. The first time around, yes.

16 Q. Would additional outreach have --

17 A. Got it.

18 Q. -- benefit to that?

19 A. So to your -- yes, it did, but it was very,
20 very extensive and very, very time consuming outreach.

21 As I had discussed earlier, you know, our
22 typical outreach is largely led by one staff member in
23 the association, and during both cases in which the
24 second referendum had to be executed we had to employ
25 the entirety of the staff to focus on awareness and

1 education of the referendum vote.

2 Q. Thank you. And in regards to adding the
3 contribution authority, could that contribution
4 authority language create a conflict of interest issues
5 and how did that communicate?

6 A. I, I don't see how expanding contribution could
7 create conflict of interest. So I probably have to
8 think on that a bit. And the reason I say that is
9 because the STOC serves all of Texas onions. And so, if
10 there is a robust checkoff system for any marketing
11 ideas we put forward -- so as was indicated, there is a
12 transparent trail for contributions that are accepted,
13 and -- and the marketing has to not only go through the
14 marketing subcommittee and then the full committee, but
15 it also has to be reviewed by USDA.

16 And in the case of, for example, the
17 specialty crop block grant, which is really the one that
18 we are we have our eyeball on, that also has to be
19 approved by the Texas Department of Agriculture. So you
20 have one, two, three, four checks already built in the
21 system for accepting points of contributions.

22 MR. HARMON: Those are all my questions.

23 MR. McFETRIDGE: Mark McFetridge, USDA.

24 CROSS-EXAMINATION

25 BY MR. McFETRIDGE:

1 Q. Starting off with, I just want to refer back to
2 Mr. Murray's testimony where he discussed that there was
3 65 active procedures and nearly 45 handlers. Would you
4 agree with those numbers?

5 A. I would.

6 Q. Would you feel comfortable giving a generality
7 about the size based on the small business
8 administration's definition of a small agri service
9 firm, which would include handlers those having annual
10 receipts of less than 34,000 -- or not 34,000 -- \$34
11 million or a small agricultural producer have less
12 annual receipts 3.75 million, would you feel comfortable
13 kind of generalizing majority would probably be
14 considered small or large, or do you feel that at your
15 position should be really targeted to the individual
16 firms or producers?

17 A. So it's -- I'm going to apologize to the court
18 reporter ahead of time, this is going to be a long
19 lengthy answer.

20 So to your question, it's difficult for me
21 to use a blanket statement, and it's a lot of reasons.
22 Number one is that most of the handlers are handling
23 commodities outside of onions. And the reason why
24 they're handling commodities outside of onions is simply
25 profitability, right, don't put all your eggs in one

1 basket.

2 This is a little uncommon, I believe, for
3 onions because if you look at specific northwest, there
4 are many companies out there who handle only onions. We
5 have very few producers in South Texas who are handling
6 only onions, so that's going to obviously impact the
7 amount of their sales.

8 The other piece is that in areas like the
9 west coast of the United States many times the handlers
10 are only involved in fresh produce.

11 What makes Texas different is that our
12 season for fruits and vegetables is very different from
13 the rest of the U.S. We are an October through May
14 window, or October through June. We are only one of
15 three zones in the U.S. that have that window. So all
16 the other places in the U.S. are very different, right,
17 they run a much longer season.

18 As a result, many of our folks in the
19 industry are also handling commodities outside of fruits
20 and vegetables. Again, not putting all your eggs in the
21 basket, and so you are looking at how can you be a
22 profitable agricultural enterprise year-round. So these
23 folks are going to be participating in things like row
24 crops, cotton, corn, flaxseed, et cetera.

25 As a result, those operations are outside

1 of my purview, so I can't with accuracy say, oh, it's
2 this number of folks operating under, was it \$32 million
3 gross sales or something you said. So it would really
4 need to be a -- an educational campaign on my part to go
5 and meet with all these folks to answer that question
6 fully.

7 My gut tells me that most are going to
8 exceed that 32 million, however, for the sake of what I
9 believe you're getting to, a lot of our folks are going
10 to be small footprint compared to the industry.

11 Most of your folks in the onion industry
12 are operating 52 weeks a year. Most of our folks in
13 Texas are only operating four months of the year in
14 terms of onion sales.

15 Q. All right. Thank you.

16 So if we narrow the scope, just to onions,
17 in general, so this would be taken out, you know, any
18 other specialty crops or any other agricultural
19 commodities, would that help to, to provide you a clear
20 answer?

21 A. It would help provide you with a clear answer,
22 yes.

23 Yes, we would have many of our folks on
24 the handling list would likely be under that 32 million
25 number.

1 Q. Okay.

2 A. If they were doing just onion sales, yes, the,
3 onions would represent a -- would represent a figure
4 underneath that 32 million.

5 Q. So for, for handlers, so just to re-clarify, so
6 it would be the definition is 34 million.

7 A. Sure.

8 Q. So based on just onion receipts then your
9 response would be that many, majority, what would you
10 say would be consider small?

11 A. I'd say probably 60 percent.

12 Q. Now, in the same narrow scope for any producers
13 of having just onion receipts of less than 3.75 million,
14 what would you say there?

15 A. I would be very challenge to give that
16 answer -- to give that answer using a factual basis. It
17 would 100 hundred be anecdotal. And the reason why is
18 twofold.

19 One, as STOC we have limitations on what
20 we can ask our producer members, that includes what they
21 receive back from handlers, right, proprietary
22 information.

23 The second thing is that, again, most of
24 our dealings at STOC is focused in the area of
25 achievements of the committee, not necessarily profile

1 our membership. So, again, it would be tough for me to
2 go out and do anything other than give you my opinion on
3 that. And I'd really rather, given the nature of this
4 hearing, have actual information to say this is my
5 answer.

6 Q. Well, thank you.

7 A. Yeah.

8 Q. Moving on. Would you be able to give a rough
9 estimate of the cost of production in a rough, like,
10 cents per pound for onions? Do you have that
11 information?

12 A. So I can't do it per pound, okay. Actually, I
13 guess, I could if I calculate it.

14 We often calculate production figures
15 using a 50-pound equivalent.

16 Q. Okay.

17 A. All right. That's the bulk of the business is
18 50-pound equivalent. In, again, anecdotal references
19 from our producers and handlers my understanding is that
20 the break even for production is somewhere between
21 \$7.50 to \$8 per 50-pound unit.

22 I would, however, recommend that you ask
23 that question to our producer members who are -- or our
24 handler members who are coming up here following my
25 testimony as they would have much better, much better

1 information to better answer that.

2 Q. To follow up on that, I know you provided, in
3 addition to my testimony, about 2025 the cents per pound
4 15, if you put that back up to the 50-pound typical
5 weight, would 2025 show that the cost of production
6 would typically be above what the grower is receiving?

7 A. One hundred percent.

8 Q. Thank you.

9 With cost of production it would
10 definitely in 2025 being above what growers are
11 receiving, do you see a possibility as if given the
12 authority for paid advertising that there be more
13 incentive for growers to come into the market?

14 A. I don't think it's as easy as making the one
15 plus one connection, and I'll give you an example.

16 Idaho potato commission roughly 30 years
17 ago they were in a position where they had to figure out
18 profitability formula because just selling their number
19 one fresh potatoes was not enough.

20 Through the efforts of those committees
21 there, they felt a very robust Number 2s market, right.
22 If you look at some of the work from Idaho Potato
23 Commission, they are really some of the folks that
24 helped put instant mash potatoes on the menu, so to
25 speak, right. Because they were able to create more

1 profitability through that effort, that ultimately led
2 to more growers participating in Idaho potato
3 production. That is very much our goal as STOC is to
4 take all of these efforts, plus others, to create the
5 most profitable and enterprising industry possible for
6 the Texas onions.

7 Q. All right. So -- yeah, just have you looking
8 at it from an agriculture producer, if you're seeing,
9 you know, returns go up, then would you expect to see
10 more interest in possibly becoming a South Texas onion
11 broker or producer?

12 A. Absolutely.

13 Q. Going to additional public member. So if a
14 public member is allowed to be able to join the
15 committee, would there be any additional costs to having
16 them participate?

17 A. No, sir.

18 Q. Okay. All right. So then if there's no
19 additional costs, then no additional costs would be
20 passed on to your handlers or producers?

21 A. I'm sorry. The question if there's no
22 additional cost, no additional cost is passed on to
23 producers and handlers?

24 Q. Yes.

25 A. That's correct.

1 Q. So question on the use of outside grants and
2 funds, I just want to know, so you stated here with you
3 had funds for 75,000 for marketing year. What can you
4 do with 75,000?

5 A. I pause, I don't mean to be facetious or silly,
6 but you can't do as much as you think.

7 To give you an idea, if I was to take out
8 a geo placement ad for Facebook meaning that I say
9 within a 50-mile radius, I want you to hit all these
10 Facebook users and use these credentials, that cost
11 alone when we did it last time, I think, and we did this
12 for one of the grants that TIPA got, I want to say it
13 was \$9,000 just for a seven-day placement or ten-day
14 placement or something like that.

15 So if you think about that, that's one
16 seventh of your budget just to advertise Restaurant Week
17 just to Facebook.

18 Q. Now, was that advertisement specifically local
19 too -- so it was --

20 A. That's how -- yes, that's how the products --
21 I'm sure I do not have the term correct for the service
22 from Facebook, but, yeah, it's based on a geography
23 where you select a point and then in such a radius from
24 that point.

25 Q. Thank you. So going to your testimony where

1 you discuss some of the other nationally, other
2 promotions you see, so like Produce for Better Health
3 spending 1- to \$5 million nationally to increase produce
4 consumption you said it had little impact.

5 A. Uh-huh.

6 Q. And then in the next sentence you say,
7 meanwhile, California Grown Produce has invested between
8 5- to 10 million per year primarily in the state, which
9 has seen a ten percent increase in sales.

10 So my question is, are you going to use if
11 given the authority to be able to use paid
12 advertisement, are you going to use previous -- previous
13 industry's returns to help to determine which would be
14 better for your industry to try to target, are we going
15 to do a national advertising campaign or it better for
16 us to stay more local?

17 A. I'd love to give you that answer with
18 certainty, but since it comes from the marketing
19 subcommittee, I can only give you a general hope. And
20 the hope is that we learn from others so we don't have
21 to make the mistake ourselves and we see where the best
22 ROI is for the spend.

23 Q. Okay. Now, for the authority to be able to use
24 paid advertising, would you be -- so would this be every
25 year you'd reassess to see how well it worked, and so

1 those funds would be earmarked to say, they could be
2 like a ten-year program or would it be every year you're
3 going to reassess to see how those funds are spent and
4 to see if you're getting your best return on investment?

5 A. So I -- not to be coy with the answer, but,
6 yes, every year we would do a reassessment. Now, that
7 is not to say though that the marketing subcommittee may
8 not decide on a multi-year project in which they
9 dedicate a portion of the funds to a project ongoing and
10 for -- and in whatever perpetuity they discuss, but,
11 again, that is going to come from the marketing
12 subcommittee who every single year will review a
13 different marketing plan.

14 Q. Okay. All right. So I would like to move on
15 to reducing the threshold for, to above 50 percent.

16 So you have stated multiple times that for
17 last referendum you had to go out for a second to get
18 the required 67 percent.

19 A. Correct.

20 Q. Would you say -- so you would have the cost for
21 your regular referendum conducted?

22 A. Okay.

23 Q. For the second one would you say that increased
24 double the cost for continuance referendum or would you
25 say it was more than doubled?

1 A. I would say it's far more than double, and that
2 is because of the number of human resources we had to
3 deploy, as well as the types of outreach that we did the
4 second time around.

5 Q. Now, with this additional cost, who paid for
6 that additional cost? Who were those costs passed down
7 to?

8 A. So we attempted to -- we attempted to keep
9 costs as low as possible but the costs didn't come from
10 the committee.

11 Q. What committee?

12 A. The producers and handlers.

13 Q. Thank you. So given the authority to reduce
14 voting threshold to greater than 50 percent, you would
15 see based on the two previous continued referendum a
16 reduction in cost that would also be passed to the
17 producers. Would that be correct?

18 A. That is correct. And it is not just in dollar
19 costs but also in opportunity costs, because, again,
20 personnel are focused on outreach efforts and
21 engagement, they're not focused on other pieces like
22 marketing and research.

23 Q. All right. Thank you. I apologize. I was
24 kind I'm jumping around a little bit. But kind of back
25 to the cost of production.

1 Do you see -- and I know Mr. Murray also
2 stated with, like, the drip irrigation where it's --
3 it's not something you can -- just say it's every year
4 it's additional costs because of issues with drought,
5 things of that nature.

6 Would you say that -- I know agricultural
7 prices fluctuate, but with some of the hardships that
8 you're -- the South Texas onion industry is facing,
9 would you say that there are barriers to entry into the
10 market because of all, besides the aggregate factors, of
11 course, but everything else that's in addition to the
12 hardships that you guys are facing?

13 A. Okay. So we are facing the hardships which are
14 going to be barriers to entry. Are there going to be
15 future barriers entry I think is a question that we
16 maybe don't see?

17 Q. No, just the current slate.

18 A. The current slate.

19 Q. Yeah.

20 A. So I think the question is how impactful is the
21 current slate of issues as an entry of barrier.

22 Okay. Excellent. It is -- it is a huge,
23 huge barrier to entry for a lot of reasons. One, is
24 that for onions because it is a pantry commodity,
25 meaning that it can hold for time, there's a lot of

1 competition. There is -- because there is a lot of
2 competition you have to be very tight on your production
3 costs, and for onions it's really about scale, right.
4 So your guy growing five acres is not going to have the
5 scale or the production to be cost effective and
6 economically compete with the same person who has a
7 hundred or 500 acres, right. So it gets to simple
8 economics at that point.

9 But then also with onions, you can't just
10 take the onion out of the field and put it into a bag,
11 right, it's got to be cleaned and then it has to be
12 sized and it has to be graded. So there is an
13 investment infrastructure as well that is required to
14 participate at this level. So you obviously have a
15 capital barrier to entry.

16 And then the last one as Mr. Murray
17 alluded to is water. Just because you have land in
18 South Texas does not mean you have water in South Texas.
19 And this is true in all 35 of the counties. So you have
20 a barrier to entry in that you might not have access to
21 a vital resource required to grow the onions.

22 Did that cover what I think you --

23 Q. Yeah, it did.

24 What other barrier -- I know Mr. Murray
25 alluded to was the cost of the H-2A workers?

1 A. The cost of labor, yes, sir.

2 Q. So would you say that is also a barrier to
3 entry because wages continue to increase?

4 A. So, yes, it is a barrier to entry, not only
5 because wages continue to increase, and, therefore, it
6 is impossible to predict where wages are going to go
7 year over year. But also because of massive amount of
8 capital required for labor.

9 The more expensive labor becomes,
10 obviously, the more money you need. That means you need
11 a larger operating line. This is important -- and I
12 apologize, it will be a bit of a lengthy answer. But
13 this is important because as agriculturalists you have
14 to pursue money at minimum 180 days prior to even having
15 a product to sell.

16 And then once you sell it, at best you're
17 still 30 days from that point from getting paid, mostly
18 it's about 60 to 90 days from getting paid. So if you
19 add 180 plus 90, you're three-quarters from the year
20 from the time you borrow money to the time you start
21 getting money back to the bank.

22 So if the bank says here is \$600,000, you
23 factor out your organization based on that. And then
24 all of sudden your H2-A rate goes up \$3 an hour, just on
25 that, well, additional expenses are a percentage of

1 that, right, being meals, transportation, housing, etc.,
2 that can throw you totally off from the projections.
3 That line of capital you had identified from the bank,
4 270 days prior no longer matches what your current
5 business expenditures are, where do you get that extra
6 capital if you are a new farm or starting out, or even
7 an existing farmer today. Let's just say that as a
8 barrier to entry. Boy, is that is a huge, huge risk for
9 someone just starting in the industry.

10 Q. All right. Another question and something we
11 haven't discussed yet.

12 So South Texas onions are sold fresh?

13 A. Yes.

14 Q. What's your shelf life, typically?

15 A. That depends on the point of season.

16 Q. Okay.

17 A. I don't mean to be coy. But earlier in the
18 season, the onions are going to be able to stay on the
19 shelf much longer, probably 60 days.

20 Q. Okay.

21 A. As you get later in the season and onions reach
22 excessive maturity or weather begins to play a factor,
23 the onions may have a shorter shelf life, something
24 closer to four to six weeks.

25 Q. Just to clear up some of the other onions that

1 were discussed, was it Selectal?

2 A. Would you like me to answer? I can answer for
3 you right now.

4 Q. You know where I'm at.

5 A. Sure. The Pacific northwest, which is the
6 Oregon, Idaho, Washington triangle, those onions can
7 almost last a whole year in storage. So that is to say
8 they will harvest the onions in August and September,
9 they will put them to sleep, essentially, in storage and
10 they will sell those onions until they are gone.

11 When I first started doing onion sales in
12 2010, we typically saw those onions exit the marketplace
13 by February.

14 It is now very common that we see those
15 onions almost through the entirety of our sales season,
16 which is to say we have yet one more competitor in our
17 marketplace now.

18 Q. Thank you. My last question, as it is for my
19 own personal information.

20 I know we talked about Valdalia and South
21 Texas onion is the original onion. Is the taste profile
22 very similar? I know because different growing regions
23 will add different characteristics to agricultural
24 products, so is it somewhere?

25 A. No, ours is the best.

1 Q. That's what I was expecting.

2 A. Okay.

3 MR. McFETRIDGE: That's all I have.

4 AUDIENCE MEMBER: Okay. Any other
5 questions for this witness.

6 MS. FURHMEISTER: May I ask another
7 question, Your Honor?

8 CROSS-EXAMINATION

9 BY MS. FURHMEISTER:

10 Q. Going back to the market and authority and paid
11 advertising, has the committee investigated the return
12 on investment with the projects that TIPA took over with
13 the block grant funds?

14 A. So I don't know that investigated is the
15 appropriate word, but what we did is we considered and
16 learned from what TIPA did.

17 So as I mentioned, TIPA did the first one
18 for Texas onions and we learned a lot about the
19 marketplace at that time. The reason why is that STOC
20 had not participated in marketing for a long time prior
21 to that. The direction was very much focused on the
22 enforcement and the regulations or guidelines for
23 production.

24 So in 2017 we began a process of really
25 reactivating the marketing machine, and so we learned

1 from the first effort where we saw successes and where
2 we know we didn't want to do something again, and so we
3 learned very quickly from those marketing efforts, and I
4 think TIPPA targeted marketing one year that. And then
5 since then we have engaged with a marketing partner who
6 is helping us be more targeted in the areas that the
7 marketing subcommittee based on the discussions from the
8 marketing policy that lead to the plan where that
9 subcommittee has said, hey, these are the areas we
10 identified and how do we execute in these areas.

11 Q. And to follow up with that, the plans on the
12 marketing subcommittee decide on those are brought up to
13 the full committee for a vote, Correct?

14 A. Yes, they are. And I'm smiling because
15 sometimes we have to go back and forth several times
16 before we reach the appropriate consensus, as I know
17 you're very aware. Sometimes we will think it's a good
18 idea in concept, and the marketing subcommittee comes
19 back and shows us the dollars and cents and the
20 committee says you know what, it was a good idea until
21 we saw the cost. Now we think it's less of a good idea.

22 ADMINISTRATIVE JUDGE CARLOS: For the
23 record that was Ms. Fuhmeister who asked those
24 questions.

25 All right. Any other questions? I don't

1 see any.

2 And in case I forgot, Exhibit 9 and
3 Exhibit 10 are admitted.

4 ADMINISTRATIVE JUDGE CARLOS: Okay.
5 Thank you very -- that's -- great job, long time up
6 there. You did a wonderful job, so you're now excused.
7 Thank you for your testimony.

8 THE WITNESS: Thank you, Your Honor.

9 ADMINISTRATIVE JUDGE CARLOS: Okay. I
10 think we're going to take a break now for the court
11 reporter.

12 (Lunch break taken.)

13 ARBITRATOR CARLOS: We are back on the
14 record. It's 1:55 p.m.

15 Next witness, please?

16 Is USDA going to call a witness or what's
17 going on? How is this happening? Do you want me to
18 control it?

19 MR. GALEAZZI: At this time we will like
20 to call Mr. Bret Erickson.

21 ARBITRATOR CARLOS: Okay. Mr. Erickson,
22 please raise your right hand.

23

24

25

1 BRET ERICKSON,
2 having been first duly sworn, testified as follows:

3 ARBITRATOR CARLOS: Please state your
4 name and spell your last name for the record.

5 MR. ERICKSON: My name is Bret Erickson.
6 B-R-E-T, E-R-I-C-K-S-O-N.

7 ARBITRATOR CARLOS: Okay. Mr. Erickson,
8 you may begin.

9 TESTIMONY OF BRET ERICKSON

10 MR. ERICKSON: Thank you, Your Honor.

11 My name is Bret Erickson. I serve as the
12 Executive Vice President of Little Bear Produce in
13 Edinburg, Texas. We are a family-owned grower, packer,
14 shipper and fresh-cut processor besides in Edinburg,
15 Texas. We employ nearly 200 full-time people, plus an
16 additional 500 seasonal workers, the majority of whom
17 are H-2A.

18 We farm roughly 6,000 acres of vegetables,
19 including onions. I've worked in agriculture for nearly
20 30 years -- more than half of that has been in fresh
21 produce. I have served on numerous boards, including
22 International Fresh Produce Association -- Texas
23 International Fresh Produce Association and Texas
24 Vegetable Association. I've testified for both the U.S.
25 Senate and house agriculture committees and have served

1 on USDA's Fruit and Vegetable Industry Advisory
2 Committee and the Agriculture Policy Advisory Committee
3 for Fruits and Vegetables.

4 Today, I speak on behalf of South Texas
5 onion industry and produce on many years of experience
6 to offer support for the proposed updates to the federal
7 marketing order, 959.

8 Number one, addition of a public number.
9 The South Texas Onion committee would benefit from
10 including a public voting member. Broader
11 representation brings transparency and fresh ideas,
12 helping ensure the decisions reflect not only growers
13 and shippers, but also the communities we serve. The
14 ability to include outside expertise -- from academia,
15 allied industries or institutional partners will help
16 the committee stay forward-looking and responsive to an
17 evolving marketplace.

18 Number two, permission to get outside
19 funds. Our industry should be allowed to supplement
20 assessments with outside funding sources, such as
21 federal and state grants. Marketing Texas onions takes
22 resources and our current budget of around \$70,000 per
23 year is not enough to make a meaningful impact. In a
24 marketplace where national campaigns and branded
25 commodities spend millions, access to external plans

1 which allow the committee to promote Texas onions and
2 compete for consumer attention.

3 Point number three, expanded marketing and
4 promotion authority. To make those dollars work, the
5 committee must also have the flexibility to use funds
6 for paid promotions and advertising. Limiting outreach
7 to internal channels, like social media research
8 outreach isn't enough. The ability to advertise, work
9 with influencers and develop in-store promotions would
10 help expand reach, drive demand and ultimately increase
11 sales of Texas onions.

12 The current requirements -- I'm sorry.
13 Point number four, adjust continuation vote threshold.
14 The current requirement of a 67 percent threshold for
15 continuation is unnecessarily high and inconsistent with
16 other marketing orders. Both of the last two
17 continuations you heard earlier exceeded the 51 percent,
18 but failed to meet to 67 percent requiring a second vote
19 on both continuation to vote. Reducing the threshold to
20 a simple majority, 51 percent, would streamline the
21 process, better reflect producer sentiment and ensure
22 the program continues to serve growers effectively.

23 In conclusion, the proposed changes,
24 adding a public member, allowing access to outside
25 funds, expanding marketing authority and modernizing the

1 voting threshold are practical steps that will
2 strengthen the committee's effectiveness and relevance.

3 The South Texas onion industry represents
4 a proud legacy and a promising future. These updates
5 will help us continue to grow, innovate and promote one
6 of Texas's signature crops while maintaining
7 transparency and accountability for us, our growers and
8 our community.

9 Thank you for your consideration and your
10 continue support of the Texas onion industry.

11 ARBITRATOR CARLOS: Okay. Cross
12 examination.

13 MS. EANKEY: Thank you.

14 CROSS-EXAMINATION

15 MS. EANKEY: :

16 Q. Mr. Erickson, I don't believe you mentioned
17 this in your testimony.

18 Under the small business administration
19 standards, would you be considered a small business?

20 A. No, ma'am.

21 Q. Okay.

22 Are you also a handler or a packer within
23 the industry?

24 A. Yes, we are a grower and packer, handler,
25 shipper.

1 Q. Since your testimony covers all four proposals,
2 I will ask you questions on all four. Some of my
3 questions may seem repetitive, but your perspective is
4 necessary for the record, okay?

5 A. Okay.

6 Q. In your testimony, you stated that you support
7 all four proposals recommended today; is that correct?

8 A. That's correct.

9 Q. And would you say you've had an opportunity to
10 study the proposed amendments and do you believe that
11 you understand them?

12 A. Yes, I do.

13 Q. Were you personally involved in the discussions
14 and deliberations regarding the proposals?

15 A. Yes, I was.

16 Q. From your experience, during these discussions
17 and deliberations on the committee, was there any
18 outreach that was conducted to inform and educate the
19 industry regarding the proposals?

20 A. Yes, there was an effort to conduct outreach.
21 I think Mr. Galeazzi outlined that -- on behalf of the
22 committee. I could speak as a grower, producer, for
23 somebody who receives a lot emails, I saw a lot of
24 outreach across my desk.

25 Q. Okay.

1 And from your experience, do you recall if
2 there were any opposing views that were raised during
3 committee discussions regarding the four proposals?

4 A. No.

5 Q. To your knowledge, did all segments of the
6 industry, including small businesses, have an
7 opportunity to provide input on the proposed amendments?

8 A. To my knowledge, yes.

9 Q. Based on what you've observed, do you believe
10 the proposed amendments have the broad -- had broad
11 industry support?

12 A. I believe that they do, yes.

13 Q. In your experience, has the number of producers
14 and handlers in the industry declined over time?

15 A. Yes.

16 Q. Can you describe the factors that may have
17 contributed to that decline?

18 A. I can speak to some of those. They've been
19 referenced several times in Jed's testimony as a grower,
20 packer, shipper. I can speak to it from a personal
21 perspective and professional perspective.

22 The cost of your labor is rising. Mexico
23 can grow onions and we could grow onions. We grow
24 cilantro, Mexico grows cilantro. There's a lot of crops
25 that we compete with Mexico on these items.

1 I am getting to close \$24 per hour for a
2 harvester, for a packer. That's the cost for each daily
3 laborer. Mexico, their cost for labor is around \$12 per
4 day. So it is a very unlevel playing field from the
5 perspective of a producer who grows here in the United
6 States on the cost of labor.

7 Water has been a significant challenge for
8 us. Three years ago, we lost close to 6,000 acers that
9 we farm. We had 2,000 -- we lost water for 2,000 acres
10 after we had just planted at the start of our season,
11 and we basically had to finish our fruit and vegetable
12 production, we essentially finished a third of our
13 farming operation revenue.

14 So the three legs of the stool for farming
15 is land, labor and water. We have a challenge with the
16 cost of labor. We have the challenge -- and we have a
17 challenge with availability of water due to, you know,
18 lack of rainfall and some challenging circumstances with
19 Mexico and how those agricultural economies have evolved
20 over time.

21 And lastly, landed. We are also a growing
22 populist and it's challenging if you spend time on
23 development of neighborhoods that make it more
24 challenging to navigate equipment than spraying and
25 farming activities around.

1 But I would say that the biggest impact to
2 us -- to us as the company and to this industry, what's
3 pulling people out of business is lack of water and the
4 cost of farming.

5 Q. Okay. Thank you.

6 So to clarify you're stating that
7 increases in cost of production due to irrigation, labor
8 and other challenges have contributed to the decline in
9 the industry and growers exiting or shifting to grow
10 other crops?

11 A. Yeah, there's been a number of other segments.
12 Food safety requirements that we are required to follow.
13 Ten years ago, we had probably one individual working on
14 our operation that oversaw the food safety. Today, we
15 probably have a staff of 18 people. We have a food
16 safety director. We have two food safety managers. We
17 have a sanitation team. We have a certified
18 microbiology lab on site with a microbiologist so we can
19 do our own sampling because we used to have to outsource
20 that. It's very expensive to do all the swiping and
21 swabbing required for customers to ensure that you're
22 compliant with food safety requirements.

23 You have challenges with regulatory
24 pullbacks for controlling, you know, weeds and insects
25 in the field and these are -- these are items that other

1 countries in Mexico, in particular, they're not
2 necessarily facing the same challenges we're facing
3 here. So that would be to name a few things.

4 Q. Thank.

5 You. As the number of producers and
6 handlers have declined, in your -- from your
7 perspective, has this affected the number of voters in
8 the continuance referendum?

9 A. Yes.

10 Q. And how? Can you will elaborate on that?

11 How has it affected --

12 A. Yes. Yes.

13 You have consolidations. People go out of
14 business. Whenever this order was established in the
15 60s, this industry looked a lot different. You know, I
16 don't know what the acreage was. I think currently
17 we're probably maybe seven or 8,000 acres, you know,
18 more or less -- and you can fact check that with Dante
19 and his information, but there's probably seven or 8,000
20 acres of onion production, more or less.

21 50 years ago, it was probably 50,000.
22 Looking at the citrus industry, we're currently at
23 26,000 acres or 27,000 acres of citrus. 50 or 60 years
24 ago, it was probably 100,000 acres of citrus. So you've
25 had just -- you have development, you have the cost of

1 farming increase, you have competition from Mexico, you
2 had a lack of appetite by the federal government to
3 provide us a solution on adding labor reforms.

4 So all of that has kind of left producers
5 to either, essentially get out of business and get into
6 real estate development, and, you know, building
7 neighborhoods and shopping malls, or you can consolidate
8 with the larger producer. I feel like we're
9 basically -- we as a growers, speaking on behalf of the
10 company and others who I speak to, there is a run way
11 that we are coming to and there's an end of the runway
12 for us, and not just in Texas, in the united states.

13 The farmers are not getting into business.
14 Farmers are getting out of business and those acres of
15 production, they're not being replaced. So it's like
16 toothpaste that's been squeezed out of a tube because of
17 these challenges, if there's more going out then we will
18 be -- we're at that end of on that policy and Mexico and
19 other countries have taken advantage of those market
20 opportunities and able to fill them, so while U.S
21 production has declined over time, and Texas production
22 being part of that, that has been supplanted by foreign
23 production.

24 So at the end of the day, if we're
25 concerned about where our food comes from and we're --

1 and where international produce security looks like, we
2 should be doing everything we could to protect and
3 preserve that special crop production that exist today
4 because you don't have people giving back to the
5 business and we're only going to become more and more
6 reliant on imported fresh produce.

7 Q. Thank you.

8 So numerically, because of the decline in
9 industry for all of the factors that you just laid out,
10 would you say that there's less eligible producers that
11 are available to actively participate in the continuance
12 referendum?

13 A. Yes.

14 Q. From your perspective, how has voter turnout in
15 continuance referendum change overtime? Would you say
16 that it's increased or decreased or stayed the same?

17 A. I can't speak to that because I'm not privy to
18 what the -- to what the turnout is, other than what I
19 gave, is essentially hearsay.

20 My speculation and educated guess is that
21 you have fewer producers that are available to vote
22 because there's fewer people in the business and they've
23 consolidated and so you have -- what you used to see
24 before is one grower also produce a number people needed
25 to serve on committee. It's very difficult to pull.

1 Q. And from your perspective, what other factors
2 may have contributed to voter turnout also in the prior
3 representatives failing, aside from the industry's
4 decline?

5 A. I would defer to Galeazzi's testimony. You
6 know, I am familiar with challenges they had in
7 conducting outreach, getting people to respond to
8 emails, getting people -- or getting correct addresses,
9 and growers are terribly busy and they're in a million
10 places. I could speak to that from perspective.

11 This is a tremendous sacrifice for me
12 personally to spend a full day here to testify here on
13 this. This is important, but, you know, we were touched
14 by a freeze last week. We're in middle of our season.
15 We had these other folks that are producers here. We
16 have a lot of other things that we should be tending to
17 at our businesses.

18 Q. Okay. So if producers failed to vote in the
19 continuance referendum, does it necessarily mean that
20 the industry opposes the continuance of the marketing
21 order or is it that they're just busy or unfamiliar?

22 A. They probably had -- well, I think it's
23 approved now because the two referendums that were
24 talking about that failed on the first pass and passed
25 on the second attempt, it's because there was a

1 tremendous amount of resources that were invested in
2 going out and creating awareness and those results came
3 in favor of that, to simple majority and they were able
4 to get done.

5 Q. Okay. So you're stating when additional
6 outreach was conducted that the committee was able to
7 reach a two-thirds threshold?

8 A. Yes.

9 Q. Which is evident of the industry's support to
10 continue marketing?

11 A. Correct.

12 Q. Based on your experience, are some produces in
13 the industry unfamiliar with the referendum process?

14 A. Yes.

15 Q. Is this unfamiliarity more common amongst
16 certain segments of the industry or is it fairly
17 widespread?

18 A. I would say it's widespread. I'd say it's
19 widespread. You have -- you know, there's either number
20 65 or 70 onion producers. You got myself and other
21 organization. You got two here and I know that's not
22 the lack of effort on the committee's part, on TIPPA's
23 part and Texas Onion Association's part to create
24 awareness for these things.

25 I mean, I can't say -- I think that they

1 don't understand the value or the -- or the impacts that
2 this marketing has and how it protects our industry from
3 imports and Texas production.

4 I just think that it's an educational
5 issue, and, you know, I've talk to plenty of people
6 about the marketing order or different things, and, you
7 know, again this is such a -- these things, we need to
8 get them done in order to get back -- this is going to
9 be a small -- we have an infinite number of challenges.
10 This is one small thing that can help us -- for the
11 onion industry, to try to help us preserve what we've
12 got going forward.

13 I think that, in general, there's some --
14 in my years of service, I spent a lot of time serving in
15 the industry, on industry boards and stuff in addition
16 to my regular job. It's volunteer work. It's
17 additional work for me to come do something like this or
18 to testify to -- you know, it's important for us to have
19 a voice.

20 I think that the majority of producers
21 aren't thinking about the policies or how the
22 administration -- the administrative aspects, the
23 values. They're trying to just farm, and I wish there
24 was more engagement as somebody who's a big proponent of
25 industry advocacy and association work and marketing

1 order work. I wish that we had a lot more people
2 volunteering their time to get engaged, but the main
3 thing I hear is that, I have the farm to run. I have a
4 business to run.

5 Q. Okay.

6 For clarification, you're saying that
7 there are restraints, and perhaps operational demands
8 and the current economic condition of the industry may
9 have impacted producers ability to engage or vote in the
10 referendum process?

11 A. Yes. I think there is also generally
12 disinterested in anything related to government programs
13 or networking or things like this. I think that
14 there's, generally amongst growers, probably not
15 interest in wanting to understand because they have
16 other priorities, which is running their farm.

17 Q. You mentioned that this is an educational or an
18 outreach issue.

19 So how did you learn about the continuance
20 referendum and how clear was the meaning of referendums
21 to you?

22 A. Well, because I personally am very involved in
23 the industry with my position. That's part of my job
24 responsibilities, is to -- we're a fairly large
25 operator. One of the largest Texas.

1 Onions make up, say, 50 percent or
2 20 percent of our overall business, but we're a large
3 organization of 200 people that my owners -- the family
4 that started the company in 1986 have built a successful
5 model, but that extreme engagement and advocacy, the
6 company understands if you are not allocating time and
7 effort to watch what is happening from policies and
8 marketing orders or regulatory side, that you're -- it's
9 not like if you're not at the table, you're probably
10 getting served from there.

11 So part of my job responsibilities are to
12 be involved with the industry, and to pay attention to
13 what's happening, and to volunteer and get on the boards
14 and try to provide influence where I can.

15 Q. So to clarify, my understanding -- you're
16 stating that is as a large producer or larger producers
17 in the industry are somewhat more actively engaged in
18 the policies of the marketing order because they have
19 greater --

20 A. I would say that from my particular company
21 that I work for, my owners, they put a high value on the
22 engagement of that.

23 Q. Okay. From your experience, does the
24 opportunity to vote in the referendum feel equally
25 accessible across all producers of different sizes?

1 A. Yes.

2 Q. In your testimony, you stated that the
3 two-thirds threshold is unnecessarily high.

4 Can you explain why and what you meant by
5 that?

6 A. Because there's fewer of us available to vote.
7 There's fewer growers available and handlers and larger
8 in scale, so it's harder to get quorums. It's harder --
9 I wish I could express to you how hard this committee
10 works to pull together committee meetings and get a
11 quorum together because everybody is always busy. Yeah,
12 it's -- there are fewer companies and growers and
13 handlers and they're larger, the ones who weathered
14 through the storm to this point.

15 Q. Okay. So is it your understanding that the
16 difficulty in reaching the two-thirds threshold is
17 because of low voter turnout, which is a result of the
18 number of producers declining in the industry and as
19 growers being unfamiliar with the process?

20 A. And also challenges in getting hold of those
21 small producers that maybe live somewhere else or asking
22 somebody to do the farming for them.

23 Q. Okay. Would you say votes -- when you have low
24 voter turnout and a two-thirds threshold, would you say
25 votes carry more weight when voters -- when votes do not

1 show up?

2 A. Yeah, I would -- I would say that, yes.

3 Q. Okay. So how can a small number of votes
4 affect the outcome when the threshold is high -- or
5 unnecessarily high, as you stated?

6 A. Well, as I understand that requirement, you
7 have to have two-thirds of the acres or two-thirds of
8 the growers, but these days, getting two-thirds of the
9 growers is a lot more challenging because you've got
10 you -- you got small family businesses going out of
11 business because of all the things that I previously
12 outlined.

13 We have a generally unfriendly position
14 towards family growers, especially crop growers. It's
15 not business-friendly environment. So they've been
16 pushed out and the larger businesses that are able to
17 absorb those, now they're going to have a larger
18 influence on the votes because you have more acreage.

19 And I don't know if it's either or. I
20 probably need to be educated on that. I believe that
21 both of those things are required or one or the other or
22 maybe the secretary has discretion if, you know, you
23 have -- you have a -- because of the -- you have fewer
24 growers who are now larger in scale, you have a hard
25 time -- harder time with the number -- the number of

1 voters hitting the 67 percent, but an easier time
2 hitting it on the acreage.

3 Q. Okay. So with a -- with the low voter turnout,
4 and you have not as many voters showing up to vote in
5 the continuous verbatim, if you were to -- and this is
6 you.

7 Is it your understanding that if we had a
8 large -- larger number of participation in the
9 continuance referendum that the numbers that would have
10 been not in favor of continuing, would not carry as much
11 weight if you have greater participation?

12 A. I think that the -- this is my opinion.

13 I don't have access to the data or the
14 numbers behind the scenes. If I -- if I speculate, the
15 people that would be in opposition to carrying on
16 marketing order a very well aware of how marketing --
17 what outcomes they have. They are very, very actively
18 engaged in the vote.

19 Q. Okay.

20 A. If that makes sense.

21 Q. Do you -- so when you have small less voters
22 voting in the continuance referendum, and then you have
23 voters that are voting in opposition, right.

24 A. Uh-huh.

25 Q. Would you say that those voters in opposition,

1 their weight -- their votes carry more weight if there's
2 less voters voting in the continuance referendum versus
3 if you had larger --

4 A. Can you start that question again?

5 Q. Okay.

6 So in the continuance referendum, you have
7 less participation.

8 A. Uh-huh.

9 Q. And when you have less participation in voters,
10 those voters that are voting in opposition, would you
11 say that they carry more weight because the voter
12 turnout is low versus if the voter turnout was higher,
13 that participation that those voters that voted in
14 opposition, it wouldn't count --

15 A. I couldn't -- I couldn't say.

16 Q. Okay.

17 What impact can difficulty meeting the
18 continuous threshold have on the stability of the
19 marketing order?

20 A. What impact?

21 Q. What impact can difficulty meeting the
22 continuous threshold have on the stability of the
23 marketing order.

24 A. We would be able to get things done, like we're
25 asking for today in terms of being able to see

1 additional funding outside of -- the way we can seek
2 funding now, you know, if we were able to enter into
3 public-private partnerships and receive grant money,
4 special crop block grants and the SCR -- SCI grants, and
5 there's other groups as well, food safety programs.
6 They do co-funding if you can put in matching dollars.

7 So yeah, if we're not able to get really
8 simple -- in my opinion, these are really simple
9 straightforward things that need to happen in the
10 industry involving the produce program.

11 We need to be involved because -- again,
12 it's coming for all of us. We need to move quickly to
13 be able to make decisions to adjust, adapt and evolve
14 and if we can't get -- to your question, if we can't
15 make it easier to get some of these things, basic
16 elements to help the industry succeed, I think it's a
17 bad thing.

18 Q. From your perspective, why is a simple majority
19 or more than 50 percent a better way to determine
20 whether producers favor continuous?

21 A. I would say that's an industry benchmark.
22 That's how some of the other marketing orders operate,
23 and I'm in favor of majority rules, but I think that
24 because the industry has changed, I think that we should
25 get ourselves updated to something more evolved

1 marketing orders are doing.

2 The onion order in the valley, I think
3 that they've done an amazing job. I wish -- I wish
4 Texas would have done what they did many, many years ago
5 because we'd be in a lot better position and people
6 would be talking about the Texas 1015 and -- and not
7 Vidalia.

8 Q. Okay.

9 And based on past referendums results,
10 would you say that the similarity would be easier to
11 achieve in the industry?

12 A. Yeah, because it would be less. Yes.

13 Q. Okay.

14 In your view, does this amended effects
15 small producers differently than larger operations?

16 A. I think potentially it will benefit them if we
17 can do things to help make the Texas 1015 onion industry
18 stronger and to create a better reached market that, you
19 know, we can have some type of high-end onion product
20 that is -- people are excited about when it's available.
21 Again, Vidalia has done an amazing job. We should
22 have -- we should have tried to do what they did a long
23 time ago.

24 Q. Is it your understanding that the simple
25 majority would better reflect the realities of today, as

1 you explain them on the record?

2 A. Yes.

3 Q. As a large producer, do you believe that this
4 amendment would disproportionately, burden or
5 marginalize any group within the industry?

6 A. No.

7 Q. In your view, how would lowering the threshold
8 benefit the public?

9 A. I think that it would help the public in a
10 number of ways.

11 What public do you want to talk about,
12 like our local community? The Rio Grande Valley? The
13 county of Hidalgo, McAllen, Mission? The local region?

14 It would help because we're doing this to
15 help strengthen our local economy by showing to keep it
16 from moving and backing away.

17 For consumers at large, I think that they
18 have the ability to be exposed to basic eating onion and
19 people get excited about Vidalia onions, there's
20 marketing opportunity there.

21 So I think it -- you know, for consumers
22 at large and the public at large, getting us out there,
23 creating excitement on the seasonality for special
24 product is a great thing.

25 Q. From your perspective, would you see that this

1 would be a benefit to consumers because consumer
2 awareness would increase --

3 A. Yes.

4 Q. -- knowledge about South Texas onions?

5 A. Yes, I think it would bring awareness. I think
6 it would help drive consumption.

7 At the end of the day, consumption of
8 fresh fruit and vegetables is good for everyone on the
9 planet. We should all be eating more fruits and
10 vegetables, that's for sure.

11 Q. From your experience, do the committee consider
12 alternatives to this recommendation?

13 A. Which recommendation?

14 Q. Proposal number one to lower the continuance
15 referendum threshold?

16 A. Yes, we did explore keeping it status quo, and
17 the determination was that in order to help get some of
18 the things done and the challenges that the onion
19 committee has faced in the last decade, this would help
20 us move quickly to get the -- get the order updated
21 because it's, obviously, not going to get easier down
22 the road.

23 So yeah, the consideration was, do we keep
24 the status quo or do we try to evolve? Status quo was
25 definitely not working.

1 Q. Okay. And you said status quo wasn't working
2 and you decided that you needed to lower the referendum.

3 What evidence did the committee use to
4 decide that lowering the referendum was the best option
5 instead of the status quo?

6 A. I think that there are so many things that have
7 happened with producers, and as I mentioned earlier, we
8 don't just produce -- most of us don't just produce
9 onions, some of us do, but we -- the company I work for,
10 we grow 40 different commodities.

11 Right now on the ground we've got Eastside
12 cilantro, parsley, curly parsley, rain parsley, Swiss
13 chard, rainbow chard, green chard, Tuscan kale, green
14 kale, red kale. The list goes on. Varieties of onions,
15 purple scallions, different types of cabbages,
16 watermelons, honeydews, cantaloupes.

17 So to your question, I think -- what was
18 your question again?

19 Q. I was asking you what evidence the committee
20 used to determine that instead of sticking with the
21 status quo.

22 A. Yeah, that evidence could be -- I think it
23 would be hard to point out exactly what it is, but the
24 evidence in our industry that is not doing well is if
25 you look at the historical acres in production here in

1 South Texas.

2 Q. Okay.

3 And is it your understanding the other
4 marketing orders also -- there are other marketing
5 orders that operate under the lower threshold, simple
6 majority?

7 A. Yes.

8 Q. And in the initial two prior referendums
9 conducted under the marketing order that the industry
10 was able to get more than 50 percent support, even
11 though despite the fact that it failed with the
12 two-thirds threshold.

13 A. I'm sorry. State the question again.

14 Q. So in the prior two referendums conducted under
15 the marketing order, the industry was able to show
16 greater than 50 percent support, despite the fact that
17 it failed the two-thirds threshold.

18 A. That's my understanding. I didn't ever see an
19 actual report that said what that threshold was. I just
20 was informed that it failed to meet the threshold.

21 Q. Okay. And so based on that evidence, would you
22 say that that was the reason why you believe that the
23 industry would be able to continue their show of support
24 for the marketing order with a lower threshold?

25 A. I think lowering the threshold makes it easier

1 to accomplish some of the other items that are in this
2 proposal and give onion producers that are still in
3 existence a better chance to survive in the future.

4 Q. Okay. And in your view, what could happen if
5 this proposal to lower the threshold was not approved?

6 A. It would make it more difficult for the
7 committee to operate, but at the end of day -- I mean,
8 the farmers are not in a reach trajectory. So I mean, I
9 think this is an important piece. I'd rather be talking
10 about how we can decrease our cost of production and
11 make us more competitive to other countries.

12 I think any little thing we could do to
13 help the people, like me and the other folks who are
14 coming up here to testify, to give them -- that they're
15 engaged. They're not trying to put anybody else out of
16 business. Growers are trying to lift up each other.
17 It's a very tight knit community. We're trying to do
18 things and find ways where we can scratch and scrape to
19 make improvements to have the market to grow our
20 commodities so we can stay in business.

21 Q. Okay. And to wrap up my questions for proposal
22 number one, is it your understanding that the lower
23 threshold would be a better measure of support of the
24 Texas -- South Texas onion industry?

25 A. Yes.

1 Q. Turning to proposal number two, which is to
2 include marketing promotions and paid advertising.

3 From your experience, to what extent the
4 committee -- to what extent did committee discussion and
5 meeting deliberations focus on the need to expand
6 marketing and promotion including paid advertisement?

7 A. I know they have done some social media
8 advertisements. They are working on -- they have the
9 restaurant thing -- or they did, working with the city
10 of Weslaco on making, like, the, you know, creating a
11 big statue.

12 And I have to be honest, I'm not member of
13 the South Texas Onion Committee, subcommittee and
14 marketing and I am pretty sure I have not attended any
15 of these they had in 2025.

16 Q. Okay.

17 A. That would be -- that was -- that was because I
18 don't have time to participate. If somebody asked me
19 to, I will happy to, but I am aware of them. I
20 participate in the upper I participate in regular South
21 Texas Onion Committee meetings. I participate in the
22 Diversity Subcommittee meetings. I participated in the
23 Nomination committee, the subcommittee for marketing is
24 what that -- on my personal priority, I leave it to the
25 team and to the marketers that they hired to go out and

1 do what they're supposed to do.

2 Q. Okay. Is it your understanding that the
3 committee has been discussing the expansion of marketing
4 promotion, including paid advertisement for some time?

5 A. Yes.

6 Q. Are you aware that a similar proposal was also
7 considered in the past?

8 A. Yes.

9 Q. And what was the result of that proposal?

10 A. I don't recall. It's pretty -- what the
11 committee has available to go out and market services is
12 thin.

13 Q. Okay.

14 Well, considering the committee is
15 trying -- recommending today to include marketing
16 promotion and paid advertising and this was a proposal
17 that was recommended in the past and we do not have that
18 authority, is it your understanding that the original
19 proposal had failed in referendum?

20 A. I don't recall what happened with that -- with
21 the last time.

22 Q. Okay. So how -- from your experience, how do
23 current market conditions today differ from, let's say,
24 ten, 15 years ago?

25 A. Well, our cost of production has probably

1 quadrupled, for one. The regulatory work that needs to
2 be done, the additional costs that we have taken on to
3 accommodate regulations, to accommodate the Department
4 of Labor Investigations, the effort that we put into
5 every aspect of our business.

6 The market is -- you have to find a way to
7 differentiate yourself to get that margin, to create a
8 product that people desire, don't just see it as
9 another -- another item and onions is a challenging
10 commodity.

11 Again, I point to the success of the
12 Vidalia Onion Committee. They have done an amazing job
13 over the years. They've spent probably in the millions,
14 millions of dollars over the course of that in their
15 initiatives.

16 So the market for us is -- it's -- it's
17 changed and the margins are razor thin, if not negatives
18 a lot of the times.

19 Q. Okay. So.

20 To clarify, you stated increases in the
21 cost of production, competition by other onion
22 production domestically and internationally through
23 marketing campaigns has renewed the committee's
24 interest in expanding marketing promotions to make
25 South Texas onions more viable in the marketplace?

1 A. Yes. Being able to go out and leverage
2 additional sources of revenue or money to help the
3 committee spend on marketing, that is going to be one of
4 the avenues upon which we can help give yourself a
5 fighting chance to exceed existence.

6 Q. In your testimony, you stated outreach to
7 internal channels, such as social media and research
8 outreach is not sufficient.

9 Can you explain why those tools alone are
10 not enough to keep the industry going?

11 A. Well, there's -- with an event on social media,
12 you have to cast that out many times and hope for -- if
13 you can get something viral -- and then once you catch
14 it, you know, you can find it for a while.

15 But we need to do than just social media,
16 you know, we should be doing more publications, more TV
17 advertising. There are a lot of things that we can't do
18 because we don't have the money to do it.

19 Q. How have marketing efforts by other industries
20 affected South Texas onions in the marketplace.

21 A. We have been hurt by it. I think, you know,
22 Vidalia has been success. We have been hurt. Texas has
23 been hurt by the success of other marketing orders.

24 Q. When you say "hurt," how has this -- these
25 changes in competition and marketing affected grower

1 returns?

2 A. Well, if your customer prefers Vidalia over a
3 Texas -- that hurts the Texas grower.

4 Q. Hurts them? Can you --

5 A. Because they want to go with a Vidalia onion
6 rather than a Texas onion. They want to go with other
7 onions that, you know, are not Texas onions.

8 So if somebody else is getting the premium
9 or getting at least enough to cover the cost, plus a
10 small margin.

11 Q. Okay.

12 Can you speak to what challenges the
13 industry has experienced in trying to maintain or
14 increase it's market share?

15 A. Can you repeat the question.

16 Q. What challenges has the industry experienced in
17 trying to maintain or increase it's market share?

18 A. All the things I said previously stated. The
19 challenges to farming, growing, marketing the product.

20 Q. Is it fair to say that the committee's
21 authority affects the industry's ability to remain
22 competitive in today's marketplace?

23 A. I think it is one of a million pieces.

24 Q. In what way -- and if you can describe in what
25 way including marketing and promotion authority and paid

1 advertisements affects South Texas onions market share?

2 In the committee's justification, they
3 claim that the industry stands to gain market share in
4 time with this proposal.

5 A. Yeah. If we have a successful campaign, it
6 puts more eyeballs on Texas 1015s in the media industry
7 through the experts that these marketing firms put
8 together. I think it's all about -- at the end of the
9 day, it's about marketing. You have to get people to
10 desire your product, launch a product in order to pay a
11 little bit more for this one versus that one.

12 Q. Okay. So would you say that with the
13 additional authority, if approved, the committee would
14 be able to conduct more marketing campaigns, which
15 would, in turn, increase the demand of consumer
16 awareness and sales of South Texas onions and improve
17 growth returns?

18 A. I would hope and pray so.

19 Q. Okay. Is the committee currently discussing or
20 considering any marketing initiatives?

21 A. Yes.

22 Q. Can you elaborate?

23 A. As I said, I haven't been to the last two or
24 three marketing -- so again, I have a lot of trust and
25 faith in the team, the people that run the association,

1 that manage the onion committee and marketing teams,
2 groups that they work with.

3 I'm familiar with a lot of different
4 initiatives, a lot of different things. Other than what
5 Dante may have mentioned, and I think you'll find from
6 somebody else from their staff talking about marketing
7 initiatives. I refer to the specific programs that, you
8 know, from the marketing specialist that Mr. Galeazzi
9 referenced.

10 Q. Okay.

11 From your perspective, do large and small
12 businesses face different marketing challenges?

13 A. Yes.

14 Q. What challenges do small producers face and how
15 are they different?

16 A. Resources. They have less resources to be able
17 to market the product. I would argue that the -- the
18 ability for the South Texas Onion Committee to go out
19 and get money and funding from outside sources that will
20 help the growers and handlers.

21 If there's anything that's going to help
22 the small growers, it's that, because of marketing in
23 the entire industry, you know -- the big producers, they
24 have -- they have competitors that are much larger with
25 the South Texas Onion Committee has.

1 So I would argue that possibly, that
2 small -- small onion producers have the most to gain
3 from the success of the Texas 1015 marketing program
4 because their marketing that money from this region and
5 it's not, like, I'm marketing my -- my onion sweet,
6 which we grew and we call it onion sweet because a lot
7 of the time marketing it. It's is essentially a Texas
8 1015 onion that's approved and we try to market that
9 label, but smaller producers, I think that they have the
10 most money for the success if we can create what Vidalia
11 has done or something similar.

12 Q. All right.

13 And to clarify, you're stating the
14 addition of marketing promotion, including paid
15 advertisement would help small producers because they
16 lack the resources to do marketing -- that level of
17 marketing on their own?

18 A. I'm sorry?

19 Q. The addition of marketing promotion and paid
20 advertising would help small producers because they lack
21 the resources --

22 A. That's my opinion, yes.

23 Q. In the committee's justification, they stated
24 that paid advertising of all Texas onions has a rising
25 tide effect on the industry in which all ships rise to,

1 i.e, small businesses. This proposal would be a benefit
2 to small businesses.

3 As a large producer, do you share the
4 committee's view that this proposal could have has a
5 rising tide effect across the industry?

6 A. Yes, they do.

7 Q. Can you explain?

8 A. Because anybody who is currently growing Texas
9 1015 onions tends to be able to stabilize -- our onion
10 program has declined significantly over the last decade,
11 as has probably most operators.

12 So if you can increase the demand for
13 onions growing in this region, I think that -- I do
14 think that's on a tide effect. If you could -- if a
15 marketing campaign is effected and you get -- you create
16 abundance around the Texas 1015 onions, you can only get
17 them in the window that we have. It's an amazing onion
18 and for the record, it's the best eating onion in the
19 world. I've eaten them all. You could see it online,
20 that is -- that has to be the rising tide for all
21 producers regardless of their size.

22 If you can create a market and demand and
23 a premium for that product, yes, I do think that a tide
24 that would raise votes for the -- for this region in
25 onions specifically.

1 Q. Okay. Thank you.

2 Moving to proposal number three. Is it
3 your understanding that the addition of this
4 conservation authority --

5 A. Okay.

6 Q. Proposal number three.

7 Is it your understanding that the
8 additional contribution authority would allow the
9 community access to outside voluntary funds free from
10 any encumbrances of the donor?

11 A. That's what we're seeking, yes.

12 Q. How would adding contribution authority help to
13 improve research and development in other marketing
14 activities?

15 A. So that we could fund new marketing activities
16 and research production, new varieties, pest, weed
17 control.

18 Q. Did the committee think about what might happen
19 if contribution authority doesn't pass?

20 Did they assess whether existing
21 assessments alone are adequate for marketing?

22 A. I don't know if that occurred or not, but
23 I'm -- I'm happy to give you my opinion.

24 Again, we're trying to throw things
25 against the wall to see what will stick as an industry

1 and with Texas and across the United States.
2 Everybody's looking for a way to get an edge to
3 differentiate your product, to try to stay afloat in a
4 world where margins are rapidly diminishing.

5 So my opinion is that if we don't -- what
6 we have available to us, what the committee has
7 available to them, is -- it's insufficient because we --
8 they can point to some success in terms of impressions
9 or things that happen online, and, you know, followers,
10 a website or a channel or -- but again, these
11 successful -- these big successful industries injuries
12 like Vidalia onions, they managed to create success.
13 They started a long time ago, and most large companies,
14 not ours, but most of large companies have budgets for
15 marketing and X amount of hours to find returns and it's
16 hard to identify exactly what the financial return is,
17 but you got to -- you got to fight, you got to try
18 ideas, you have to go out there and see what other
19 people are doing, thinking outside the box and try to
20 find ways to keep yourself competitive and also vital.

21 Q. What makes Vidalia marketing successful as
22 compared to that of the South Texas Onion Committee?

23 A. I think they -- it's capturing a lot of
24 different things. What I see from the outside is they
25 have done a very good job of spending dollars on

1 marketing, they point at smart bases around the country.
2 They develop programs with merchandising with retailers
3 that -- they're paying for partnerships with top chefs
4 and influencers and I see-- what I see is that they have
5 spent a lot of money in a lot of different places and it
6 has paid off.

7 Q. So from your perspective, proposal number two
8 to expand marketing and promotion, including paid
9 advertising and proposal number three conservation
10 authority would help to make South Texas onions more
11 relevant in the marketplace and improve growers returns
12 and consumers demands?

13 A. That's the goal.

14 Q. Turning to proposal number four. Do you
15 support the proposal amendment -- and this is the
16 additional public member.

17 Do you support proposal amendment to
18 include an alternate member seat on the committee?

19 A. Yes, I do.

20 Q. Do you believe these proposals that are
21 recommended today reflect the current needs of the
22 industry?

23 A. Yes, I do.

24 Q. Is there anything else that you would like to
25 share about how these proposals may affect the industry?

1 A. Just that we need the ability to do something
2 different. What we have been doing is not working, it's
3 not the fault of the South Texas Onion Committee that
4 onion producers are struggling. There's many, many,
5 many, many, many things that are contributing to the
6 challenges of producers, but this is one very small
7 piece of those many things that we should try to do
8 something a little different than what we've been doing.

9 Q. And you believe the amendments being
10 recommended today would help to address some of those --

11 A. Yes, ma'am, I do.

12 Q. Thank you.

13 MS. ANKEY: Thank you I have no further
14 questions.

15 MS. McMURTREY: Michelle McMurtrey.

16 CROSS-EXAMINATION

17 BY MS. McMURTREY: :

18 Q. So I just have a quick question to ask. You
19 touched on it a little bit with the marketing of Vidalia
20 onions.

21 And so if you -- if these changes are
22 approved, what kinds of marketing and advertising would
23 you like to see or would you envision for the 1015
24 onion.

25 A. I would like to see the marketing programs that

1 catch a lot of eyeballs on Texas 1015 onions.

2 Q. Okay. To follow-up, it sounds like there's,
3 like, a festival.

4 So is there anything else, like, just kind
5 of with the eye catching like anything else that you
6 would like to see?

7 A. Yeah. I would like to see the Texas 1015
8 featured on the Joe Rogan show. That would be -- that
9 would be big.

10 Q. I love it. Okay.

11 MS. McMURTREY: Those are all my
12 questions.

13 MS. CHILUKURI: Rupa Chilukuri.

14 CROSS-EXAMINATION

15 BY MS. CHILUKURI: :

16 Q. Thank you, Mr. Erickson, for your testimony. I
17 just have a few questions.

18 In your testimony, you mention IFPA.

19 A. Yes.

20 Q. What does that stand for?

21 A. That's the International Fresh Producers
22 Association.

23 Q. We've also heard your testimony, you talked
24 about handlers and shippers.

25 Is there a distinction between the two?

1 A. No.

2 Q. No? Okay.

3 So we're using those simultaneously?

4 A. Uh-huh, I'm using them simultaneously, yes.

5 Q. Okay. Same thing with producer?

6 A. Yes.

7 Q. Also, in your testimony, you mentioned a farmer
8 has roughly 6,000 acres of vegetables, farming,
9 including onions. So you're farming other things.

10 A. Uh-huh.

11 Q. Have you seen any marketing orders or other
12 type of regulatory programs to cover those commodities,
13 are there?

14 Any successes that you have seen?

15 A. No. No.

16 For the commodities that we grow, onions
17 are the only item that we operate under a marketing
18 order.

19 Q. Okay.

20 A. I have seen other successful marketing orders.
21 I point to Vidalia. I point to, you know, Got Milk.
22 Got Milk was the result of a marketing order. Producers
23 were successful with it and that was awesome for a
24 while.

25 Q. So nothing that you've personally worked on,

1 but just other things that you heard about?

2 A. Yes, correct.

3 Q. Do you have Exhibit 9 in front of you there?

4 That is the exhibit that has the proposed language
5 related to 959.84. We left it at that table, hopefully.

6 A. Okay.

7 Q. Okay.

8 So we asked Mr. Galeazzi about this
9 language and whether the committee would be open to
10 modifying 959.84 to that language to more clearly state
11 the intent of the industry and the committee so I just
12 wanted to ask you the same question, if that reflects
13 how continuance referendum should function?

14 A. That's my personal opinion. That's what I
15 would like to see.

16 Q. Okay.

17 You also mentioned you were on the
18 nomination subcommittee and it sounds like you were more
19 active on that than any subcommittees.

20 So can you speak to your role on the
21 subcommittee and how you how do you think the public
22 member with function of the committee?

23 A. On the nomination subcommittee?

24 Q. Is that relevant at all to the --

25 A. Yeah, it would be -- yeah, it would probably

1 fall under the nomination committee.

2 So my work on the nominations
3 subcommittee -- I can tell you this, it's very
4 challenging to find growers and handlers who are still
5 in business because we have lost a number of growers and
6 handlers. The number has declined over time and then
7 finding people who are willing to take the time to
8 participate on -- you know, like the South Texas Onion
9 Committee.

10 We go through a pretty extensive list --
11 not extensive, because it's not -- there's not an
12 extensive list of people. It is very small pile. It's
13 kind of like you grow up in a small town and you're --
14 you know, your homecoming king and homecoming queen and
15 all the others, it's just like the very small pool of
16 people who are in the business and who are willing to
17 sit on the committee.

18 So to your question about having -- your
19 question was about the nomination committee, how --

20 Q. Right. I was just curious about you having
21 been on the nomination subcommittee --

22 A. Right.

23 Q. -- and how that formed your thoughts.

24 A. I think it would -- I think adding the outside
25 person, the industry -- that adjacent person is

1 important. I am a fan of getting perspective of people
2 that are willing to put in time, willing to put in the
3 effort. Again, having served on different boards and
4 stuff, there's people that do it because it's a good
5 thing to put on their resume to say that I participated
6 in this, and then -- but the people that served with the
7 committees and serve on the boards and such, there is --
8 there's a subset of people who are really willing to put
9 in the work and do the -- and that's what you need.

10 We don't get paid to do these things.
11 It's volunteer time. It pulls you away from your
12 regular job. So I think that -- putting myself on the
13 subcommittee, that also -- I think that also opens up an
14 avenue for another person, even for us to be able to --
15 or another subset to select from to help fill the
16 committee, to also -- that they would be impactful
17 because that's part of the things that, in the
18 nomination committee, you're looking at people's body of
19 work, their resume, what experience they have. Are they
20 going to be engaged? Are they known to be those people
21 who likes to raise their hands so their name is on the
22 list, and say, hey, I was on this committee or I was on
23 that committee? Are they actually going to put in work?
24 Do they have a good lens, in which they can bring in
25 value to, all of our goals, which is to increase

1 consumption on Texas 1015 onions.

2 So yeah, does that answer your question?

3 Q. Yes. It was very helpful. Thank you.

4 ARBITRATOR CARLOS: Any other questions?

5 MR. MCFETRIDGE: I have a couple.

6 Marc McFetridge, USDA.

7 THE WITNESS: The economist?

8 MR. MCFETRIDGE: Yes, you are correct.

9 CROSS-EXAMINATION

10 BY MR. MCFETRIDGE: :

11 Q. As your time serving with the committee, have
12 you -- do you remember any examples of activities that
13 the committee wanted to undertake, but couldn't because
14 either funds weren't available or didn't have the
15 ability to do any paid advertisements?

16 Can you remember any broad or specific
17 topics?

18 A. The most recent one I know that we've been
19 working on was working with the city of Weslaco to build
20 a -- like, a -- I think it was the world's largest onion
21 and it was going to be kind of a landmark, and Weslaco
22 was actually willing to partner, they invested time and
23 effort. They were willing to donate a piece of property
24 where the statue was going to be built, and my
25 recollection is that we could not -- I think we're still

1 working on it, but it has been a very challenging effort
2 to acquire the necessary funding to hire a sculptor who
3 is going to build a long lasting -- it wasn't going to
4 be papier-mache because it'll melt in the rain, right?

5 I don't know if it was going to be bronze
6 or something, but it was going to, you know -- it was
7 suppose to be a landmark that wasn't just going to be
8 beneficial to Weslaco, but beneficial to the Texas 1015
9 onion, maybe we'd go on the Texas Travel Show, you know,
10 the guy from Shane McCullum or, you know, or the Texas
11 Country Reporter or a program like that, but I don't
12 think they've been able to -- to this point, I don't
13 think we were able to get enough funding for that.

14 Q. Okay.

15 Any other things that pop up that you guys
16 have talked about that you want to do, but funding
17 wasn't available?

18 A. I know there's other initiatives. I can't
19 recall off the top of my head.

20 Q. Okay.

21 A. Marketing, I want to say it's not my -- I leave
22 it to the experts.

23 Q. No problem.

24 I want to get your perspective on cost of
25 production. I know we've heard testimony today that

1 cost of production is up around 7.50 to about 8.50ish
2 per -- was it a 50-pound box or bag?

3 A. No. No. The cost? I don't --

4 Q. Okay. Was I wrong in my numbers --

5 ARBITRATOR CARLOS: Okay. Hold on a
6 second.

7 Is there anybody who can help Mr. Erickson
8 with that?

9 MR. GALEAZZI: I can help, Your Honor.

10 My testimony was that the cost of
11 production from our growers is roughly between 7.50 to
12 eight dollars for 50 pounds.

13 Just so we're clear. That is the totality
14 for the four varieties, not specific to any brand or
15 box -- and then a sack, which is inexpensive compared to
16 a box.

17 ARBITRATOR CARLOS: Okay. That was
18 Mr. Galeazzi.

19 And Mr. Murray, do you have something to
20 add?

21 MR. MURRAY: Yes, sir, I do.

22 ARBITRATOR CARLOS: Yes. Go.

23 MR. MURRAY: The bags, when we do bags,
24 is a buck and a half, two bucks more. You put in
25 consumer packs in it, you're going to add some extra

1 onions with it so you can be all the way up closer to
2 \$13 for a 40-pound box because of all the materials, so
3 it's not just -- that is different.

4 ARBITRATOR CARLOS: Okay. Good.

5 Oh. One more. Mr. Davis?

6 MR. DAVIS: Mr. Davis, yes.

7 You're asking about the cost of production
8 per acre? Because you're way off on that.

9 You know, with all that's occurring up
10 there, but there's no way that -- you know, the cost of
11 production is so high, and you, know, there's no way
12 with \$70 you'd break even because of the cost to harvest
13 all the packaging.

14 I'm sure up at, but the numbers seem to be
15 a little skewed on the low side, in my opinion, about
16 how much it cost to produce.

17 ARBITRATOR CARLOS: Okay. So I don't
18 know if that helps with your question, or -- we had,
19 like, four different inputs now so take it from there.

20 MR. MCFETRIDGE: Yes.

21 Q. (By Mr. McFetridge) All right.

22 So to refresh my question -- so for a
23 50-pound bag, what would you say --

24 A. Let me just stop you right there. I'm not a
25 numbers guy.

1 Q. Okay.

2 A. I'm a policy, regulatory, association, industry
3 guy. I would differ specific questions on cost of
4 production to one of your future witnesses because he's
5 going to be able to provide you a very detailed picture
6 of cost of production, and packaging, and handling and
7 what's happening in the market place.

8 Q. All right. Thank you.

9 A. Yes, sir.

10 MR. MCFETRIDGE: Those are all my
11 questions.

12 ARBITRATOR CARLOS: All right. Anybody
13 else? Any more questions?

14 Mr. Muarry?

15 MR. MURRAY: Jed Muarry.

16 CROSS-EXAMINATION

17 BY MR. MURRAY: :

18 Q. I have a couple questions for you.

19 So in the onion world, are you guys a
20 price taker or a price maker?

21 A. Price takers.

22 Q. And what would it take for you to be a price
23 maker?

24 A. If I had a produce that people strongly
25 desired, like a Timex versus a Rolex watch.

1 Q. Or ultimately, a Texas 1015 onion?

2 A. Or a Texas 1015 onion versus a Vidalia onion.

3 ARBITRATOR CARLOS: Okay. For the
4 record, a price maker is somebody who could call and say
5 this is how much we want for this product.

6 Price taker is if somebody says, here is
7 the price. Take it or leave it. We'll buy it if we
8 want it at that price.

9 MR. ERICKSON: That's what we operate as
10 producers. We're at the mercy for -- we sell both to
11 retailers, either H-E-Bs, Walmarts, Krogers, buyers both
12 in the U.S. and Canada. We also sell to whole sellers,
13 but most of that is very much market-dictated, and
14 generally, the market is very depressed.

15 MR. MCFETRIDGE: Okay. So you take
16 prices?

17 MR. ERICKSON: Yes, sir.

18 ARBITRATOR CARLOS: Okay. Got it.

19 All right. Mr. Murray.

20 Q. (By Mr. Murray) My next question is, you talked
21 about acreage decreasing.

22 A. Yes, sir.

23 Q. I know that earlier we talked about changing up
24 the harvest practices.

25 What would help to lower the cost to

1 increase more production based on marketing?

2 A. Well, when I'm paying \$24 an hour a person,
3 whether we're harvesting or not harvesting, that
4 includes the time that they drive from their housing to
5 the time that they go out to the field and that may be
6 30 or 45 minutes. They are paid at that rate, for their
7 breaks. They're paid to go to lunch. They're paid when
8 they drive home. They're paid -- we're providing the
9 housing, we're providing the food or providing catering.
10 We're providing all those things.

11 If I had a mechanical harvester, say, that
12 would drive out my cost of labor, but the onions --
13 Texas 1015s onions are unique and it's -- what's the
14 word? I guess a more tender onion. So the development
15 of variates that are sweet and that have a lineage to the
16 Texas 1015, but they're maybe firmer and maybe able to
17 handle mechanical harvesting better. Those are things
18 that the South Texas Onion Committee could help invest
19 in our need on new varieties.

20 And with the work on the mechanical
21 harvesting. The future of our business, as U.S. based
22 food and vegetable crop producers is going to be
23 automation and mechanization.

24 We're going to have -- ultimately, we're
25 going to have to take the people out of it. We're just

1 a very labor intensive industry component. So yeah, if
2 I could automate everything, that unit would never be
3 sick, it would -- you know, there's a lot of things that
4 would help us be more competitive.

5 Q. Thank you.

6 ARBITRATOR CARLOS: Okay. Anything else?
7 Yes.

8 MS. FUHRMEISTER: I have a question, Your
9 Honor.

10 This is Delaney Fuhrmeister.

11 CROSS-EXAMINATION

12 BY MS. FUHRMEISTER: :

13 Q. To your knowledge, do you know if the committee
14 has missed out on any grant funding for mechanical
15 harvesting, for not having contribution language?

16 A. I'm not certain. I know that some grant money
17 was pursued via TIPA because I know they've done some
18 work on mechanical onion harvesting. I don't know how much
19 harvesting I there's another grower who was working on
20 that, but I cannot speak to what money was missed out
21 because the committee itself couldn't go pursue funding
22 , but I would that being in a specialized group focused
23 solely on Texas 1015 onions that you may have a little
24 more weight when you're chasing money to save up.

25 I'm not an associate that represents

1 just -- like TIPPA represents all producers going in the
2 state of Texas as well as all produce that is imported
3 into and through the state of Texas, that maybe would
4 add more weight as a committee, especially an onion
5 committee going after special block crop grant money
6 that -- and you have a pretty good case showing the
7 decline in the Texas onion industry, but it's an iconic
8 item for Texas that you might have more success, perhaps
9 in choosing those dollars.

10 Q. Thank you.

11 A. Uh-huh.

12 ARBITRATOR CARLOS: Okay.

13 MS. ANKEY: I have a couple questions.

14 ARBITRATOR CARLOS: Okay. Why am I not
15 surprised.

16 Okay. Go.

17 RE-CROSS-EXAMINATION

18 BY MS. ANKEY: :

19 Q. Is mechanical harvesting a mechanism that is
20 being currently implemented in the South Texas onion
21 industry?

22 A. It's being looked at, yeah.

23 Q. Are there any risks or any issues associated
24 with the mechanical harvesting as to why it's not being
25 currently done?

1 A. It's too costly, yeah, but, you know, there's
2 upside if we can come up with a method to do that, but
3 it's very, very costly.

4 Q. And in your view, how would contribution
5 authority help to get better access to projects like
6 mechanical harvesting and do future research for the
7 industry?

8 MR. ERICKSON: Your Honor?

9 ARBITRATOR CARLOS: Yes?

10 MR. ERICKSON: Would it be possible for
11 me to differ to Mr. Galeazzi?

12 ARBITRATOR CARLOS: Yes.

13 MR. ERICKSON: Okay.

14 A. I would like to refer to Mr. Galeazzi on
15 mechanical harvesting.

16 ARBITRATOR CARLOS: Is this part of the
17 regular thing we're looking at, one through four?

18 MR. GALEAZZI: No, sir.

19 ARBITRATOR CARLOS: Okay. I'll let it
20 go.

21 MR. GALEAZZI: But with that said, you
22 will have testimony from the grower who was helping lead
23 the argue on mechanical harvesting, Mr. Will Beckwith.
24 So he would have intimate knowledge of that project from
25 the producer side, if that's what you're looking for.

1 MS. ANKEY: Thank you.

2 ARBITRATOR CARLOS: Okay. I think we're
3 done. Mr. Erickson, thank you very much for your
4 testimony.

5 MR. ERICKSON: Thank you, everybody.

6 ARBITRATOR CARLOS: And listen, on behalf
7 of the USDA, I really appreciate your time. I know
8 you're -- it sounds like you're a very busy man. I
9 really -- we do appreciate your time spending your day
10 here and I realize it was probably a painful experience,
11 but thank you very much for your time.

12 MR. ERICKSON: Yes, sir. Thank you.

13 ARBITRATOR CARLOS: All right. Should we
14 take a break? Yes? No?

15 Okay. If you need to use the restroom,
16 you can step out. We're going to continue with
17 Mr. Davis.

18 Okay. Back on the record.

19 Administratively, I'm going to admit -- I
20 don't know if I did or not. Exhibit 11, which was the
21 written testimony from Mr. Erickson, that's admitted
22 into evidence, and I now have before me Exhibit 12,
23 which is Mr. Davis's written testimony. So we're going
24 to start in a minute.

25 ARBITRATOR CARLOS: Mr. Davis, please

1 raise your right hand.

2 MICHAEL DAVIS,

3 having been first duly sworn, testified as follows:

4 TESTIMONY OF MICHAEL DAVIS

5 ARBITRATOR CARLOS: Please state your
6 full name for the record. Spell your last name.

7 MR. DAVIS: Michael Davis, D-A-V-I-S.

8 ARBITRATOR CARLOS: Okay. Mr. Davis, you
9 may begin your testimony.

10 MR. DAVIS: Good afternoon. My name is
11 Michael Davis. I am the owner of Tex-Mex Sakes and TM
12 Farms. For over 30 years, I have worked in the onion
13 produce industries. My family has been in the industry
14 for over 50 years. Tex-Mex Sales is a family business
15 located in Weslaco, Texas. We are a mid-size company
16 that grows, packs and ships onions. We employ over 60
17 people during our peak season at our packing facility
18 and over a hundred people on the farm during harvest.

19 My family has been involved in the
20 industry -- onion industry since the 1960s. My
21 grandfather and uncle on my mother's side started
22 growing onions in Texas and Mexico. They helped pioneer
23 the farming of onions in Tampico, Mexico in the 1950s.
24 My father himself started in the produce industry in the
25 late 50s working in California and Arizona for pacific

1 fruit for all types of commodities.

2 In the late 60s, he moved to Texas and
3 eventually started his own company selling all types of
4 commodities from Texas and all over. I personally
5 started out in industry when I was nine years old
6 working in the father's packing shed where we grew,
7 packed, shipped onions, melons, cantaloupes and many
8 other commodities.

9 My first job at nine years old was
10 starting at the bottom. I cleaned the warehouse,
11 working my way up to stacking and eventually packing
12 melons. I did that through high school and college. It
13 was a good way to make money.

14 In 1991 while studying Agriculture
15 Economics at New Mexico State, I worked my way up to
16 handling the logistics for my company and after I
17 graduate, I started working in sales.

18 After graduation in 1988 -- actually it
19 was '96, I started selling onions. After working for my
20 father for several years, we decided to open up a
21 company, together focus solely on growing, packing and
22 shipping onions. In 2001, Tex-Mex was created and we
23 started to focus -- we did good focus on that.

24 For the past 30 years, I have worked in
25 selling onions from Texas, New Mexico and all over the

1 U.S. I have served both on the South Texas Onion
2 Committee, as well as a produce, producer and handler
3 member. I currently sit on the committee as a handler.

4 Again, with my extensive experience
5 working in produce industry and focusing on onions and I
6 am here to express my support for the four proposed
7 amendments to the marketing order.

8 I believe these changes matter since the
9 industry and the marketplace of the Texas 1015 onion has
10 changed over the years. As time change with the
11 introduction of new technologies, it shows that
12 retailers, wholesalers and consumers have changed their
13 ways of shopping for commodities.

14 These amendments will help our marketing
15 order create the opportunity to become credible and
16 flexible with today's type of consumers, aligning us
17 with the new reality of how consumers are purchasing
18 produce and help market our Texas 1015s through that.

19 Point one, add a public member to the
20 committee. The addition to a public member to the
21 committee will overall strength the committee by having
22 transparency, diversification and an outside perspective
23 that not only reflects growers and shippers, but our
24 community. We as an industry feed our neighbors and
25 communities will help reinforce public confidence, and

1 with this public member seat will encourage more
2 communication on how we manage and promote our state
3 vegetable for the Texas 1015 onion. I do believe that,
4 you know, having their perspective and ideas is good.
5 It's definitely good for our industry.

6 Number two, the permit of the use of
7 outside monies such as grants/partner funds.

8 The outside monies, it will help create,
9 more opportunities for new technology, help improve the
10 Texas onion industry with research for mechanical
11 harvesting, creation of new onion varieties of our
12 region and push for innovation. Grants will facilitate
13 our ability to match outside sources such as federal and
14 state grants, being able to get more for our dollar.

15 In the past, it's been difficult to be
16 able to match such grants with limitations of funds for
17 resources. Creative development, media research has
18 become more expensive. It has been a challenge to
19 improve the Texas onions -- Texas 1015 onions in the
20 produce marketplace without a suitable budget.

21 Use of assessment funds for paid
22 advertising. As mentioned previously; by allowing paid
23 advertising to support the expansion of more outreach to
24 promote Texas 1015 onions, which is the first domestic
25 onion of the year. With the limitation of paid

1 advertisement, it has become difficult to promote,
2 educate and research to aid in our effects to show the
3 consumers the difference in not only what makes the
4 Texas 1015 onion so important to the onion industry for
5 how it was developed and that research has been used to
6 improve so many other varieties and inform consumers
7 about the distinction in our short day onion.

8 This will boost the South Texas Onion
9 Committee's ability to be able to share our message
10 through numerous methods to educate a multitude of
11 different consumers on our onions and promote our
12 precise Texas 1051 onion season.

13 Number four, continuation referendum at 51
14 percent.

15 The current referendum having the super
16 majority at 68 percent has created difficulty for us
17 onion growers and shippers to be accurately represented.
18 As the number of producers and growers in the region has
19 gone down in the previous years, I believe that this --
20 that changing to a simple majority of 51 percent will so
21 accurately represent growers and producers to be easier
22 to pass or reject issues that are presenting while still
23 representing the majority.

24 At 51 percent, it will allow us to
25 continue to make decisions that still represent the

1 producers and growers without over complication of
2 meeting the super majority. The simplification of 51
3 percent will create a far more efficient and practical
4 portrayal while still depicting the majority.

5 In closing, as both a producer and a
6 handler in the industry, I have seen the difficulties
7 our current federal marketing order 959 has provided for
8 our South Texas Onion Committee with the constraints for
9 allowing us the opportunity for growth, innovation and
10 accurate representation in the marketplace.

11 As we continue to evolve as a community
12 with the way we receive information by adding a public
13 member, allowing outside funds, authorize paid
14 advertisement and amending the voter threshold to 51
15 percent, we can ensure the future of our commodity and
16 industry.

17 Our historical agriculture legacy within
18 the industry -- onion industry not only affects the
19 importance of the Texas 1015 onion. With these changes,
20 it with benefit to keep our industry relevant, active
21 and broaden both our industry and community. I believe
22 these adjustments will help the South Texas Onion
23 Committee, Texas producers and handlers strengthen the
24 Texas 1015 onion in the produce marketplace.

25 I appreciate your time and consideration

1 and thank you for your thoughtful review.

2 ARBITRATOR CARLOS: Okay. Cross
3 examination.

4 CROSS-EXAMINATION

5 BY MS. EANKEY: :

6 Q. Thank you, Mr. Davis.

7 Under small business administration
8 standards, would you consider yourself a small business?

9 A. Yes.

10 Q. You also stated that you're a handler.

11 Are you also a small handler?

12 A. That -- well, I'm probably one of the three
13 largest handlers here in the -- in the area, but I'll
14 still say we're small compared to the monies that we
15 were talking about. Yes.

16 Q. Have you had an opportunity to study the
17 proposed amendments?

18 A. Yes.

19 Q. Do you believe that you understand them?

20 A. Yes.

21 Q. Were you involved in the discussions and the
22 deliberations regarding the proposals?

23 A. Yes.

24 Q. From your experience, was there any outreach
25 that was conducted to inform and educate the industry

1 regarding the proposals?

2 A. Yes, absolutely.

3 Q. And were there any opposing views made my
4 members during committee discussions regarding the
5 proposals?

6 A. Not that I recall, no.

7 Q. Do you share the views of the committee and
8 support all four proposals today?

9 A. I do, yes.

10 Q. To your knowledge, do all segments of the
11 industry, including small businesses, have an
12 opportunity to provide input on proposed amendments?

13 A. Yes.

14 Q. Based on what you observed, do you believe that
15 the proposed amendments have broad industry support?

16 A. I do.

17 Q. In your experience, can you tell us what
18 factors have contributed to the industry's decline as a
19 small producer?

20 A. I will tell you the industry has changed, it's
21 not yet alluded. I started in 1991, 1994 I graduated
22 college. The industry, it shrunk and I believe because
23 of many factors, but one of them being Idaho, Oregon,
24 Washington, they are -- they're growing into our season.
25 Idaho, Oregon finish in February, we start in March, and

1 everybody had their place in the market. Everybody had
2 to time period, and Mexico has infringed now. They come
3 in and they're always right before us, but now they're
4 growing later.

5 So our normal period is March and April
6 and now Mexico has onions in April. Idaho has onions in
7 April. Washington has onions in April so it squeezed
8 the, you know, acers here are. I don't know what it was
9 before. I don't remember what it used to be, but it had
10 to be well over 10,000 acres and I can guarantee you
11 here in the valley, we only have 6,000 acres and, you
12 know, that is -- just competition has made the onion --
13 our onion acers shrink here in the valley.

14 Q. Okay.

15 And so how has that competition impacted
16 small growers? Have you observed an increase of the
17 number of small producers in the industry?

18 A. You know, growers are going to find -- are
19 going to go where they can make money and if they can't
20 make money, then they're not going to grow it. They're
21 going to look for something else to grow.

22 I'm a grower. I do -- basically, I grow
23 onions, cotton, corn, grain, row crops, but I grow
24 onions and I don't grow anything else. I'm like Bret
25 with 600 items -- or I don't know how many he has, but I

1 have four different types of onions and we do probably
2 300 different packs. We do a lot of retailers, but we
3 do a lot of different packs. You'd be surprised how
4 many different packaging types you have, but people are
5 going to go where they go.

6 You know, for a small grower, he needs to
7 be able to make money and, you know, there's
8 hopefully -- if you do pass some of these, especially
9 the marketing order, you know, I think if we can get
10 monies, we can at least -- it's going to take time. We
11 might be able to restore this onion industry in South
12 Texas to a higher level and make more profit for the
13 smaller grower.

14 Q. Has the impact from onion protection by
15 competitors, has that impact had different experiences
16 for larger versus small growers?

17 A. I think it's the same. You know, when you're
18 large or small, it doesn't matter. If you have too many
19 onions -- we sold onions for less than we produced it
20 for. It doesn't really matter. You do have some
21 growers that have contracts, but it's the onion
22 percentage.

23 Q. So you're saying small growers are exiting at a
24 higher rate in comparison to large producers?

25 A. I would say that, yes. If you are a large

1 grower and you -- I think whether you're large or small,
2 they're going to cut the acreage down if you're not
3 making money.

4 Q. Have you experienced similar challenges where
5 you had to reduce production?

6 A. Oh, absolutely. This year, we've cut back on
7 150 acres just because of water problems, and also --
8 well, really water. We normally would grow 350 acres of
9 onions ourselves and we're down to about 200, and there
10 was definitely no reason to increase after last years
11 market and the way the market is this year. Nothing has
12 really changed.

13 Up in the Northwest, they sold onions for
14 \$3 last year during our time period. When we were
15 selling Texas onions, they were \$3 in Idaho and
16 Washington and they -- as they are selling them for \$3,
17 they increase their acreage by 50, 20 percent. That was
18 not a very smart move, in my opinion, but they are
19 paying consequences. They've been at four, \$5 all year
20 and they're losing money.

21 So, you know, honestly, the only way that
22 you change things as growers who puts the seed in the
23 ground -- and if you're losing money, you're, obviously,
24 going to cut back and I think if things don't change
25 within a year or two, there will be -- you know, banks

1 are always the ones that, you know, stop you from
2 growing because they give you the money to keep
3 planting, and so I do think that things will change, but
4 right now, we're in a pretty low spot in onions in the
5 last couple years.

6 Q. From your experience, has a declining industry
7 impacted the number of growers participating in the
8 continuance referendum?

9 A. No, I don't think so. I think that -- you have
10 to understand farmers and growers, as you want to call
11 them. They have a million things going on and they get
12 a letter from you guys, and they put it down and they
13 forget about it. They got a million other things to do.
14 They're farming, they're having people to look at. They
15 don't look at that thing. They forget all about it and
16 that's probably what happened.

17 You know, same thing. Luckily I have
18 organization. I have my daughter and my son. I have
19 people to look, you know, this came in. You have to
20 look at this. But as a farmer, you get that thing and
21 put it right there and forget about it. I promise you
22 that's what happened to most of these farmers, was not
23 on the top of their to do list. They have -- they
24 probably didn't know what it was. They probably looked
25 at it and -- oh, I'll look at that later. I think

1 that's really what you saw in the first referendums. I
2 don't think it was that, you know, market conditions or
3 anything. I just think it was not a priority and they
4 forgot about it.

5 Q. Okay. Thank you.

6 So just to clarify, you don't believe that
7 the declined was contributed to lower voter turn out,
8 but mostly the unfamiliarity with the process in
9 continuance referendum and perhaps other constraints and
10 the busy schedule?

11 A. Correct. I think it was there -- I don't think
12 it was the onion market or the -- you know, that made
13 them not vote. I think it was just, like I said, other
14 factors.

15 Q. And in your opinion -- sorry. I didn't mean to
16 cut you off.

17 In your opinion, if producers fail to vote
18 in the referendum, it doesn't necessarily means that the
19 opposed of the marketing order.

20 A. Correct.

21 Q. Okay.

22 A. Yes.

23 Q. From your perspective, what are the affects,
24 positive or negative, when USDA conducts a second
25 referendum each time on the industry?

1 A. I just think it's a lot of money. Like I said
2 earlier, it takes a lot of time, a lot of money for
3 everybody to do a second one. You know, I do hope that
4 we can get with the times and maybe email these things
5 instead of mailing them. You know, that may be a good
6 thing.

7 Why mail? You know, you don't have time.
8 You know, you can't lose an email. You can lose a piece
9 of mail. You know, anything can happen. You can
10 misplace it or whatever, but you can always go back and
11 find that email and I will hope that -- we could change
12 that. I think that would help with your -- with the
13 process of the referendum and getting it done, in my
14 opinion.

15 Q. Okay.

16 Is it fair to say that despite the initial
17 referendums failing, the industry does support the
18 continuance of the marketing order?

19 A. Yes.

20 Q. How did you learn about the continuance
21 referendum? How clear was the process to you?

22 A. You know, I have been involved -- I don't know.
23 I don't know, probably ten years now in the South Texas
24 Onion Committee. I mean, honestly, I didn't even
25 realize that there was six years that it happened. I

1 mean, you know, I've been working in this industry since
2 1994 when I graduated college and then probably in 2014
3 is when it impacts -- that's how -- you know, when
4 you're a farmer, you have a million -- I have three kids
5 and a family to support, and, you know, that's why I
6 sell onions. I really didn't attention til that time.

7 So as a grower or handler, you know, your
8 time is important and you don't realize these things are
9 happening, especially with letters and stuff like that.
10 I didn't even know, honestly. That's the truth.

11 Q. Okay.

12 So the continuance referendum requirements
13 added to the marketing quarter -- the South Texas onion
14 marketing order in 2008 added some new revisions in
15 considering the age of the marketing order itself.

16 Would you say that that has contributed to
17 the fact that it's relatively new as contributed to the
18 unfamiliarity of producers or not --

19 A. Probably because most of these producers have
20 been doing this since the 50s and 60s. They're older
21 gentlemen and, you know, I am very lucky to have two
22 kids that have gone into business with me, but most of
23 the farmers that are here in the valley, there is not a
24 lot of kids that are going into it so, you know, before
25 that. You know, they probably didn't know.

1 Q. From your experience, does the opportunity to
2 vote feel equally accessible across producers of
3 different times?

4 A. Yes.

5 Q. In your testimony, you stated that the
6 two-thirds threshold was difficult for producers to
7 act -- to be accurately represented.

8 Can you explain what you meant by that?

9 A. Well, I mean, whether you want -- the marketing
10 order, if you want to get rid of it or you want to keep
11 it, it's much easier to do at 51 percent than at
12 two-thirds majority. If you want to get rid of it, it's
13 going to be a lot easier 51 percent. It's that simple.

14 You know, having a two-thirds majority,
15 getting the people, getting them there, somebody forgets
16 about, doesn't turn it in, you know, there's those
17 things, but, you know, if we're able to communicate
18 better and get all these, I think that it's a much
19 better way to do it than the supermajority, just because
20 of that. It's just simpler. That's just the way I look
21 at things.

22 Q. And why would the lower threshold be easier to
23 achieve in comparison to two-thirds?

24 A. I don't think it's easier to achieve. I just
25 think it's representative of what people want. If we

1 get 51 percent, that's the majority, right? It's easier
2 to determine if you want to get rid of it or not or keep
3 it.

4 Q. So you feel the simple majority is sufficient
5 in measuring the industry support?

6 A. Absolutely.

7 Q. And are you aware that they're order marketing
8 orders that also operated under a simple majority?

9 A. Yes.

10 Q. The committee stated that reducing the
11 threshold would give small producers a stronger voice.

12 Does that align with your experience?

13 A. Could you repeat the question? I'm sorry.

14 Q. The committee stated in their justification
15 that reducing the threshold would give smaller producers
16 a stronger voice.

17 A. Correct. I would agree with that, yes.

18 Q. Can you elaborate on why you agree with that?

19 A. Well, whether you grow 50 acres, grow a
20 thousand acres, you have the vote as anybody else.
21 Absolutely.

22 Q. As a small producer, do you believe this
23 amendment would disproportionately, burdened or
24 marginalize any group within the industry?

25 A. No.

1 Q. Okay.

2 Moving to proposal number two, marketing
3 promotion, including paid advertising.

4 ARBITRATOR CARLOS: So go ahead and ask
5 the question, but in this proposal you prepared, he's
6 going to speak to number one and number three.

7 Are you prepared to talk about number two
8 also?

9 MR. DAVIS: Sure. Why not?

10 ARBITRATOR CARLOS: All right. Go for
11 it. Number two.

12 MS. ANKEY: Are you looking at the --

13 ARBITRATOR CARLOS: The witness list.

14 MS. ANKEY: Yeah. I apologize.

15 That was really a note for myself.

16 ARBITRATOR CARLOS: Okay. Got it.

17 MS. ANKEY: Not necessarily questioning,
18 but he did talk about all four proposals in the written
19 testimony.

20 ARBITRATOR CARLOS: Okay. Number two.

21 Q. (Ms, Ankey) In your testimony, you stated limited
22 authority makes it more difficult to educate consumers
23 and South Texas onions. And this is proposal number two
24 marketing and promotion.

25 How does the lack of paid advertising make

1 this more difficult in the current market environment?

2 A. Okay. I might open a can of worms, but we're
3 going to talk about this.

4 Marketing, you know, the monies that we
5 need -- we need to get as much as we can. We talked a
6 lot about Vidalia. We talked about all this and -- but
7 Vidalia has done a good job. I'll that to them.

8 The Vidalia growers control 95 percent of
9 the sweet onion business in the United States. They
10 bring in the onions from Peru and they really don't give
11 two cents about South Texas 1015 onions. They could
12 skip over us. There are some retailers that support us,
13 but honestly, we need the monies to get able to go out
14 there and pursue these retailers and make these guys --
15 because they control the sweet onions. They're the ones
16 that are putting them in their packaging and they're
17 shipping them to these retailers.

18 We need the monies to get in front of
19 these retailers and make them come here to buy our
20 onions. That is what we need. We need the monies to be
21 able to go after these and promote our stuff to these
22 retailers so that they want to come here and have the
23 first sweet onion in the United States.

24 I do believe that consumers want that. I
25 do believe that consumers want to support U.S. growers,

1 and Texas onions being the first ones.

2 And I understand that when Vidalia starts
3 they want to go there. That makes sense, but we have
4 this problem that -- the control of the sweet onion
5 business, and that's why -- I sell onions. You're
6 right. That's what I do and it's a problem, and I even
7 mentioned it to us in the South Texas Onion Committee,
8 but we don't have the monies to go out there and do
9 this.

10 That's really the reason why we need this
11 help. We need to be able to -- it's not going to be
12 next year. Honestly, this is going to take years, but
13 if we don't it -- I mean, you know, we need to be able
14 to change these retailers perceptions and want -- and
15 their customers, that they want -- hey, we want a Texas
16 onion. Get it in here.

17 Like I said, these vendors are the ones
18 that are actually controlling -- you know, we got Peru
19 and we'll stick with Peru. You know, they bring Peru
20 onions all the way through our season sometimes. Why?
21 Because it's easier for them to have than have Texas
22 onions, you know -- or they'll use a Mexican onion
23 instead of a Texas onion because it's cheaper or
24 whatever, but, you know, I just think that if we can
25 educate the consumer and interact with these retailers,

1 we have a chance at rolling in the onion industry and
2 getting it back to where it used to be because, you
3 know, 20, 30 years ago, there was -- there was a --
4 Texas onions were important. I don't think that they're
5 important anymore. That's a sad thing for our industry.

6 Q. Thank you.

7 A. Uh-huh.

8 Q. In your testimony just now, you described South
9 Texas onions as the domestic onion.

10 In your view, why is it important that
11 consumers understand that this is the first domestic
12 onion and why short day varieties differ from other
13 varieties?

14 A. Well, you're going to eat an onion that comes
15 out of storage and it's got dark skin and is it's very
16 hot, and sometimes when you cut it, it doesn't look that
17 good in the middle. They go bad. They've been sitting
18 there for six months.

19 You know, being the first domestic sweet
20 onion and then having regular yellow, red and whites, a
21 lot of retailers want -- you know, come March, they want
22 to have fresh onions, and the guys up Northwest really
23 don't like that. You know, they're trying to push us
24 out too and it's, you know, being able to educate -- you
25 know, most consumers understand that they know the

1 difference. You know, when they see an old onion, you
2 know, it's cold, it's hot. It's different, you know,
3 our onions are fresh. They're sweet and they, you
4 know -- they taste great.

5 I mean, it's -- but you know, it's
6 having -- it's educating, and, you know, a short day
7 versus a long day, like I said, you can a long day
8 onion, throw it against the wall and it'll bounce back
9 at you. If you throw our onion against the wall, it's
10 going to splatter or it's going to crack, but it's sweet
11 and, you know, that's why we say we have unlimited
12 window of marketing. We harvest it, we market it
13 within -- probably ten days, two weeks. That's a long
14 time, but we usually ship out three or four days of
15 bring it into the shed. We'll dry it, process and then
16 ship it.

17 COURT REPORTER: Counsel, can I have a
18 minute to plug in my computer? I need to charge it.

19 ARBITRATOR CARLOS: Yes. Okay. We're
20 going to take a break.

21 All right. We are back on the record.

22 Mr. Davis -- oh. Who's doing cross?
23 Okay. Got it. Go.

24 Q. (Ms, Ankey) Okay. I believe we left off
25 discussing the short day varieties of Texas 1015 onions.

1 So to clarify, my understanding, Texas
2 1015s are a fresh sweet short day variety and this is
3 the reason why timing is so important from a marketing
4 perspective; is that correct?

5 A. Yes.

6 Q. Can you -- I'm sure this is a very easy
7 question for you, but why are Texas onions so sweet?

8 A. Variety, number one. You know, they were the
9 first onions that we were used in the 30s were what they
10 call a flat onion and that's what they used in the
11 making of the Texas 1015 onion. It's -- it has to do
12 with low and high sugars, and, you know, it's got a lot
13 of water content and that's the reason I think that it's
14 sweet.

15 And also, you know, there's -- you know,
16 you take a bite of it, you know, and it tastes sweet.
17 You might have a little bite at the end sometimes, but
18 most of the times, you take taste the sugars and that's
19 kind of the difference between a short day and a long
20 day.

21 Q. How would a consumer know when to buy a South
22 Texas onion at retail markets?

23 A. They'll promote them. You know, whether it's
24 H-E-B here in Texas or Kroger or whoever that wants
25 them, they'll promote them. If you're a retailer and

1 you're using Texas 1015s -- when they're coming, they're
2 putting out signs and they're -- you know, these big
3 retailers, they're all digital now too so you can get it
4 on your phone, but, you know, it's -- it's all digital
5 now.

6 Q. What time of the year are Texas 1015s
7 available?

8 A. March 1st. You know, we might be able to come
9 off depending on -- this year, we got hit by the cold a
10 week ago and it's been extremely warm. So I mean, the
11 onions are -- I think are a little bit ahead of
12 schedule.

13 So usually we can start harvesting at the
14 end of March, at the end of February, if we're lucky,
15 but definitely beginning of March through May. You
16 know, as we were talking about, you know, in the East
17 Coast, when Vidalia starts, whether it's 15th, 20th of
18 April, the retailers switch. That's just the way it is
19 in our industry. They switch and they'll take Vidalia.
20 Texas and some other areas in the country will stay with
21 Texas 1015s, but yeah, we have a limited window to sell
22 our onions.

23 Q. So consumers looking to purchase a Texas 1015
24 should be looking in grocery stores between March and
25 May?

1 A. March and -- yeah, I would say March and May,
2 correct, yes.

3 Q. How can consumers verify at their retail store
4 that these are Texas 1015s?

5 A. Well, I would assume signage, obviously, in the
6 stores. You know, we put a sticker on every onion,
7 right. So there's a price logo number that we use for
8 Texas 1015s, which is a 4161 number, and that number is
9 a Texas 1015 price logo. So a customer can look at that
10 and I would assume that the stores going to -- if
11 they're bringing in Texas 1015 onions, they're promoting
12 for sure.

13 Q. From a producer perspective, why is it
14 important for consumers to verify that their fresh
15 onions in the store are Texas 1015s?

16 A. Well, I mean, I think it's important. You
17 know, really -- as Bret was saying, we need to support
18 American agriculture. You know -- you know, growers are
19 having a hard time, but if, you know -- if we can
20 support in bringing Texas onions compared to a Cuban
21 onion or a Mexican sweet onion, why would we bring in a
22 Texas onion?

23 I think that's something that, you know,
24 we can help with these -- you know, getting monies and
25 paid advertising and getting -- passing this legislation

1 we're trying to by trying to get a lot of consumers
2 might even know that there's a Texas onion, they could
3 have a Texas sweet onion and support U.S. -- you know, a
4 USA grower compared to the grower in Mexico or Peru.

5 I think that's -- you know, that's
6 important, if we can get that out to the consumer, I
7 think there's a lot of consumers that would do that or
8 they might ask their store, why aren't we having Texas
9 1015s onions in the store?

10 When that happens, the vendor that's
11 selling that store has to either come buy from me or one
12 of my other, you know, shippers here. They can't go
13 take an onion -- you know, they can't go get an onion
14 from somewhere else and put a sticker on it that says
15 Texas 1015, right? That would be a no-no, right?

16 So they have to here and buy and if we can
17 get the consumer to tell the retailer, hey, I want this.
18 This vendor make say, get these out, get your fruits
19 out, we're going to restock, we're going to switch, and
20 that's -- the only way that we are going to end up
21 promoting and growing our industry here is by getting
22 the consumer to know that we have it, and that consumer
23 has to tell his retailer where he buys his onions, hey,
24 I want a Texas onion.

25 Q. Okay. Aside from Texas 1015s being

1 domestically produced, is it your understanding that
2 under the marketing order, one of the tools that the
3 committee can use and currently using is quality and
4 condition standards?

5 A. Yes.

6 Q. And in your view, would this be important to
7 consumers to know that if they were to purchase Texas
8 1015s, that these onions meet a certain quality and
9 grade as compared to others?

10 A. Absolutely. Not could super housing with the
11 but the reason that we have this marketing order and the
12 reason it needs to stay, is that Peru, Mexico, anybody
13 that's importing onions has to make U.S. number one
14 because of our marketing order.

15 Canada was get away with it for years so
16 we went up to -- we went up to D.C. a couple years ago
17 and they had no idea. Canada was not making U.S. number
18 one at the border. Can you imagine that? 20 years that
19 they were doing that, and the minute that they found out
20 about all that, all of a sudden, everybody went up in
21 arms because, you know, they have to, according to the
22 law, they have to make U.S. number one onion coming in
23 as an import requirements.

24 That's another reason why this marketing
25 order is really important. It's the basis of any import

1 has to be number one. Without this marketing order,
2 they can come in and they could begin whatever they want
3 in. They would have to -- you know, Mexico, if it
4 crosses that border and it's not number one, there's two
5 options. You send it back or you move on and go that I
6 couldn't be expected.

7 Q. Thank you.

8 From your perspective, do large and small
9 businesses face different marketing challenges?

10 A. You know, I don't think so. I mean, I think we
11 all face the same challenges. I think whether you're a
12 large grower or a small grower or if you have a good
13 business, you're okay. It all depends on market
14 conditions. If the market's good, everybody's, you
15 know -- you know, if markets are bad, you know, it's --
16 we're really the only true supply and demand commodity
17 really in the produces business. If there's too much
18 production, markets are low. If there's not enough
19 production, markets are high.

20 Q. Okay.

21 So as a small producer, do you share the
22 committee's view that this proposal would have a rising
23 tide effect across the industry?

24 A. I think -- absolutely. We need all the help we
25 can get.

1 Q. And how do you think the proposal to increase
2 marketing and promotions, including paid advertising
3 could affect your operation?

4 A. We have a lot of work to do, but if we can get
5 monies, grants, and money to help us promote our
6 product, that's what we need.

7 Q. And you believe this proposal would benefit all
8 producers regardless of size?

9 A. Absolutely.

10 Q. Okay. How would the addition of contribution
11 authority address the challenges that you have mentioned
12 today?

13 A. Contribution.

14 Could you expand on contribution
15 authority?

16 Q. Access to outside voluntary funds.

17 A. Can you repeat the questions? I'm sorry.

18 Q. How would contribution that the addition of
19 contribution authority address the challenges at that
20 you have mentioned today?

21 A. Any monies we can get, whether you have a -- an
22 oil tycoon that grew up out here and loves Texas 1015s,
23 he wants to give us money, we could use whatever.

24 I mean, anything to help us whether it's
25 you know contributions from wealthy individuals or

1 businesses or industry, you know, companies that we
2 support, whether it's cattle companies or whatever.
3 They can -- if they help support us to help promote our
4 industry, I'm all for it.

5 Q. Is it your understanding that the amendment for
6 contribution authority would provide the committee with
7 the ability to match grants and pursue other
8 opportunities?

9 A. Yes.

10 Q. Is it your understanding that the amendment of
11 contribution -- the additional contribution ability to
12 the marketing order would improve the committee's
13 ability to engage in research and other promotional
14 activities?

15 A. Yes.

16 Q. Are you aware of any outside funding sources
17 that the committee is currently considering or that you
18 yourself may be specifically referring to?

19 A. No, I haven't -- I'm not. No, I do not -- I am
20 at work year-round. I grow here. I go to New Mexico to
21 work, and I'm doing most of this stuff by Zoom calls.
22 I'm never here. All summer, I'm working. So I'm always
23 doing Zoom calls, but I don't know what funding they're
24 looking at right now. I'm not on any of those
25 committees. I'm on our main committee and I go on the

1 meetings, but I can tell you that whatever we
2 handlers -- you know, I can tell you I don't think that
3 the current mechanical harvesters that they have right
4 now are -- you know, all the mechanical harvesters they
5 have are basically of a long day onion. New York,
6 Washington, Idaho, they're not basis of short day
7 onions. You know, they were talking about, you know,
8 the problem is you take that, you lift it up with the
9 machine, you put it down and take it to your shed, you
10 pack it and you ship it, all of a sudden that onion
11 comes in -- rejection. I have to take it somewhere. I
12 sold it for \$15 now it's worth five bucks because I sent
13 it somewhere and 30 percent of it got nicked up and they
14 can't use it and they throw it away.

15 You know, if we can get funds to build
16 something that will work with a short day onion, that is
17 something I'm for, but the technology they have on these
18 harvesters right now are basis of long day hard onions
19 that can take a beating. Ours cannot.

20 I mean, when I looked at it years ago when
21 they first started, it's -- you know, there's no way to
22 physically -- you know, we have to clip these onions by
23 hand. The 150, 200 people in our fields clipping and
24 we're going through it, and the only way, you know, to
25 make these onions get to my shed, pack them and ship

1 them and deliver them is by hand harvesting, as we
2 speak.

3 If there is, in the future, a technology
4 where you can teach something, you know, treat it like a
5 plum, and you can harvest it, and pick it up like a plum
6 and not even, you know, not beat it up, then that is
7 something that would change the industry down here, for
8 sure. It would make easier.

9 You don't have to have \$24 an hour labor
10 harvesting onions. You know, we don't do H-2A, but I
11 will tell you we start off -- and we're paying probably
12 12 for the first week or so then everybody gets started,
13 well, you know, we're probably close to \$24 by the end
14 of the season, and if there is some kind of technology
15 that can be invented, because of what's available right
16 now will not work, but if we could find funds to build
17 something or make something work, yes, I'm all for it.

18 Q. Okay.

19 So to clarify, as of currently in the
20 South Texas onion industry, onions are primarily
21 harvested by hand?

22 A. Ninety-nine percent of them.

23 Q. And that is the process, just picking them and
24 clipping them?

25 A. You lift them with a machine, you cut the roots

1 out and lift them up, they sit there for a day or so and
2 people come in and clip the roots, they clip the necks
3 and they put it in a bin. You pick up that bin, take it
4 to the shed, dry and process it.

5 Q. And mechanical harvesting would differ from
6 hand harvesting because you wouldn't have actual
7 individuals out there --

8 A. Looking out over.

9 Q. Okay.

10 And it's your understanding that the
11 increase in funding and voluntary contributions would
12 help the committee to engage in more innovative
13 projects, like mechanical harvesting which currently
14 needs more research and funds in order to make it a
15 project that could be useful for the industry?

16 A. To make it viable, yes. I agree with that.

17 Q. In your testimony, you stated that media,
18 research and development has become more expensive.

19 How has the cause of research and
20 development increased over the years?

21 A. Like I said, we have a budget of about \$75,000
22 per year for the South Texas Onion Committee and we
23 can't do squat with it. You know, we're not really --
24 you know, we're doing -- I mean, it's great and I'm glad
25 we're doing it.

1 So we're doing restaurant week in San
2 Antonio. You really think that's going to make people
3 eat more onions? No.

4 We need money to be able to get big, you
5 know, retailers or food service people and get them to
6 buy it. It's nationwide. That's what we need in my
7 opinion.

8 Q. You mentioned a budget 75 -- approximately
9 \$75,000.

10 In your -- from your perspective, how does
11 this budget compare to the scale of other marketing
12 expenditures by other national committee's grants,
13 monies or other competitors?

14 A. I believe -- I really don't know what the
15 Vidalia Onion Committee spends on advertising. That
16 would be the best basis for, you know, to compare, but I
17 assume it's probably a hundred times that. I have no
18 clue. It's definitely not -- you know, they're not
19 spending \$50,000 to promote their product. They're
20 spending millions of dollars every single year to
21 promote their product and that's why everyone on the
22 East coast knows about them. They're on TV over there.
23 We're not on TV. We're barely on Facebook with a
24 50-mile radius. So yes, we need help.

25 Q. And from your perspective, how would the access

1 to outside funds impact this budget and change the
2 committee's ability to engage in the research and
3 promotion?

4 A. Like I said, I think any outside monies we can
5 get to help research -- promotion and research --
6 promotion being number one. That's more important than
7 research, but, you know, promotion for us is huge. Any
8 monies we can get, we need it. Absolutely.

9 Q. And how has this impacted producer returns in
10 the industry overall?

11 A. It would be huge for the growers here in the
12 valley. I mean, if somebody demands that they have our
13 onions and they buy it because the consumer wants it,
14 then you're more of a price maker than a price taker.

15 Q. Got it. Okay.

16 In your testimony, you stated that adding
17 a public member seat would strengthen the committee
18 overall -- I'm turning to proposal number four now.

19 A. Okay.

20 Q. By adding transparency, diversification and an
21 outside perspective.

22 How would the additional member seat
23 accomplish this?

24 A. Having somebody outside the industry is good.
25 As I said, having new ideas is something that we need.

1 If they have a perspective or ideas that we didn't think
2 about and that's why I think it's important. They can
3 look at it differently than we would as growers and
4 handlers.

5 Q. You stated that retailers, wholesalers and
6 consumers have changed their way of shopping for
7 commodities with the introduction of new technology.

8 How has changes in technology and
9 marketplace affected how consumers hear or learn about
10 Texas onions?

11 A. Well, right now, unless you're a retailer
12 that's promoting it -- you know, everything is digital.
13 Most of your big retailers have an app and that's where
14 you get your coupons that you use, all in the app.

15 So, you know, they're promoting it. You
16 know, that's what we need to be able to do. We need to
17 figure out how to get in with these retailers and
18 promote with them, whether that's money that we have to
19 give them, promotional loans, whatever it is.

20 You know, that's -- that's what Vidalia is
21 doing. They're dealing with these retailers hand foot
22 and they're giving them promotional -- or monies to
23 promote on digital, whether it's dollars or promotional
24 material.

25 Q. Okay. Turning back to propose a number one,

1 lowering the threshold. Just have a few quick
2 clarification questions in regards to that.

3 In your testimony, you mentioned -- you
4 believe the simple majority of 51 percent will still
5 accurately represent us onion producers and growers to
6 make it easier to pass or reject issues that are
7 presented while still representing the majority.

8 Is it your understanding that the
9 amendment does not affect how the committee makes
10 motions or recommendations.

11 This amendment is strictly changing
12 continuance referendum threshold from two-thirds to a
13 simple majority.

14 A. Yes. And that's why I said earlier. If we
15 want to get rid of it, it's 51 percent. It's a lot
16 easier than 68.

17 Q. And is it also for understanding that this
18 amendment does not change the threshold for referendum
19 for obligation or substantive amendments?

20 A. Yes.

21 Q. Okay.

22 From your perspective, do the proposals
23 recommended today help to keep the industry relevant and
24 improve the industry's position in the marketplace over
25 time?

1 A. Yes.

2 Q. Do you believe these proposals reflect the
3 current needs of the industry?

4 A. Yes.

5 Q. Is there anything else that you would like to
6 share about how these proposals may affect the industry?

7 A. No. I believe proposals will help the
8 industry. That's why I'm here.

9 Q. Thank you.

10 MS. ANKEY: I have no further questions.

11 ARBITRATOR CARLOS: Okay. Next.

12 MS. McMURTREY: I have no questions.

13 MS. CHILUKURI: Rupa Chilukuri, USDA.

14 CROSS-EXAMINATION

15 BY MS. CHILUKURI: :

16 Q. Just a few questions, Mr. Davis.

17 In your testimony, on page two on the top,
18 you talk about these amendments will to help our
19 marketing order create the opportunity to become
20 credible and flexible with today's type of consumers
21 aligning us with the new reality of how everyday
22 consumer are now purchasing their produce.

23 Can you -- and maybe you did speak to it,
24 but a new reality of how everyday consumer are now
25 purchasing their produce.

1 Can you tell us that means?

2 A. Well, my wife goes on her app at H-E-B and
3 orders her food. Sometimes she doesn't even go
4 shopping, sometimes she does, right. The new reality
5 is, it's all on the phone, and you -- you know, that's
6 the reality. You know, these retailers are going to
7 have promotions there and, hey, onions are 59 cents a
8 pound today, boom. Come on. You know, someone sees
9 that and they run to the store or they're having
10 three-pound bags of onions for two bucks, you know,
11 they're -- and that's what happening. It's not like it
12 used to be, you go and put it in the newspaper, you
13 know, back in the day you had to do that.

14 Now, it's like that. You know, you can
15 make a decision and send out these things immediately.
16 We need to be able to -- that's the reality of what it
17 is. I don't -- you know, back when they put it in the
18 newspaper, I was a kid, right, I never went shopping,
19 but, you know, I remember my dad and them talking about
20 that. That's -- you know, they had to put these ads
21 out, you know, weeks in advance because they would go
22 out in the paper.

23 Now, I think -- what I meant by that was
24 the reality is these things can be done digitally very
25 quickly, and get to the consumer instead of, you know,

1 having them waiting for the paper and telling them, you
2 know, next Saturday, you're going to have it. Right now
3 it's, hey, you know, three days from now, we're going to
4 have this ad.

5 Q. Thank you.

6 Most talked about our state vegetable is
7 the Texas 1015 onion. Is the Texas 1015 onion, is that
8 the official state vegetable?

9 A. I believe it is. Yes, ma'am, it is the state
10 vegetable of Texas.

11 Q. Okay. Thank you.

12 Further down in your testimony, you talk
13 about -- number three, use of assessment funds for paid
14 advertising and I just want to clarify.

15 So if paid advertising goes into effect,
16 that authority is approved in the referendum or it plays
17 out, if it's approved, could you use other funds --
18 could you use reserve funds, for instance, for paid
19 advertising or marketing promotion?

20 If you get voluntary contribution, could
21 you use funds through that?

22 A. Yeah. I mean -- you know, to me, paid
23 advertising is where we're going to -- you know, that's
24 where we're going to promote our product and get it
25 known and get it out there, by advertising. Absolutely.

1 Q. Okay.

2 So whatever funds are available to you in
3 the marketing order, you could use?

4 A. I would definitely -- that would be on the
5 subcommittee, but I will definitely give my opinion in
6 the committee, but yeah, I think that the paid
7 advertising is a huge -- that's only thing we're going
8 to get out of this situation that we're in, is by
9 advertising and making consumers aware of what we have
10 and when we start, and you know, American first.

11 I'll be honest with you, I think that's
12 something that a lot of people would gravitate to, if
13 they had a U.S.A onion in March 1st. They will
14 gravitate to that, but they have to know that, and then
15 if we're out there advertising all of the country will
16 ask, why don't we have Texas onions in the store?

17 That's -- and it will take years, but I
18 think we can do headway by -- but we have to be able to
19 advertise. We have to be able to get that message out
20 there to the consumer.

21 Q. You talked a little bit about the process of
22 harvesting -- hand harvesting, drying and processing.

23 Can you talk about what processing
24 entails?

25 A. Of course.

1 So we have people that go out there and we
2 crate the onions, we clip it from their ends, and bring
3 it our facility and we put it -- so we push air through
4 the bins to dry the onions down so that way it sets the
5 skin because when you -- because it doesn't have much of
6 a skin set and so you put it on air for a few days and
7 that outside skin starts to dry down and that's how you
8 get that pretty onion.

9 Now, what we do at our facility -- and
10 most facilities do now, we also have -- what we called
11 top sizers(ph). You know, back in the day, everybody
12 used a change to size onions. They had a chain and
13 each -- that chain had a size, it went over it or it
14 dropped down.

15 We beat the heck out of those onions, beat
16 them up, you know, they were -- they would rip them and
17 cut them, and so, you know, the processing of it is so
18 much different than it was 20, 30 years ago. It
19 completely changed, and, you know, to be able to -- that
20 process goes from taking that dried onion after it dried
21 for two, three days and dumping it and putting it over,
22 sizing it out, having growers look at it and putting it
23 into a bag, a box, a sack. If jumbo or mediums, we
24 have -- most of our stuff goes in three-pound bags to
25 the retailers so that's what we call the processing end

1 of it, for me.

2 Q. Thank you.

3 And then continuing on in your testimony,
4 you talk about the current referendum has a
5 supermajority at 68 percent has created difficulty for
6 us onion growers and shippers to be accurately
7 represented.

8 So you state that. I just want to
9 clarify. In the continuance referendum, it's the
10 growers who are voting now; is that right?

11 A. Correct, just the growers.

12 Q. And, obviously, you're saying they're
13 representing the handlers at well?

14 A. Well, not the growers. The growers are the
15 ones that do this reprimand, but, you know, as I stated,
16 I think that a lot of it is just time management for
17 them and not -- it's not a priority when these came
18 about.

19 Now, after it did pass and Dante went on
20 blitzkrieg of getting that done and out there, all of a
21 sudden it became a priority, right, because they didn't
22 want to lose the marketing order.

23 But at first, I don't think it was that
24 they didn't want to do it. I just don't think -- they
25 looked at it, put it to the side, I'll get to that and

1 then you forget about it.

2 Q. And do you have Exhibit 9 before you there?

3 That is the language proposed of 959.

4 A. Yes.

5 Q. Okay. Great.

6 So that language there is to change some
7 of the language to talk about how -- to make clear what
8 the threshold is.

9 A. Okay.

10 Q. So it says, secretary will consider termination
11 of this part if continuance is not favored by more than
12 50 percent of growers voting in the reddendum and
13 growers -- or growers with more than 50 percent of the
14 volume of onions represented thereby.

15 Is that threshold, more than 50 percent
16 the two numbers -- the number and the volume, is that
17 your understanding of how the continuance referendum
18 will work?

19 A. I mean, we're looking at 51 percent or more
20 than 50. Same -- same thing.

21 Q. Okay.

22 And just -- you're saying that farm are
23 busy with other things, people are busy with other
24 things.

25 Do you think they -- they do know that if

1 they want to terminate the marketing order, they could
2 do that?

3 A. Absolutely. Absolutely.

4 Like I said, it's going to be a lot easier
5 for them and for me, I'm a farmer, but it's going to be
6 a lot easier for us if we want it terminated at
7 51 percent.

8 Q. And there's other provisions -- you know,
9 there's other provisions like 959.84(C) that speaks to
10 termination or if another person seeks termination.

11 Do you understand that?

12 A. I have not read the marketing order to that in
13 detail, but -- I mean, again, if it wants to be done,
14 then, obviously, there will be a vote on it and then
15 we'll talk about -- to go forward with it, but I don't
16 think that's going to happen.

17 I just think growers all deserve this. I
18 think another things is -- as I said earlier, I think
19 you need to be able to send an electronic email to these
20 people. I think most of them are within having emails.
21 Most people I know have emails and I think that's a much
22 easier way to get to the people, but, you know, most of
23 these farmers are in operations and they don't have
24 people, you know, it may be him and his wife, maybe his
25 kids, but he doesn't have three or four employees

1 working for him in the office. All of his employees are
2 in the field and so I think that's where you have the
3 disconnect sometimes when that happened.

4 Like I said, it's just -- they don't have
5 someone to remind them, and, you know, I think that's
6 where that would happen.

7 Q. Okay. Thank you, Mr. Davis.

8 A. You're welcome.

9 MS. FUHRMEISTER: Delaney Fuhrmeister for
10 the record. USDA.

11 CROSS-EXAMINATION

12 BY MS. FUHRMEISTER: :

13 Q. Are you aware of the committee trying to add
14 paid advertising into the order previously?

15 A. I did not know, and I don't -- like I said,
16 I've been doing this for ten years now and I do not
17 remember trying to put in paid advertising. I do not
18 remember us voting on it at all, honestly.

19 Q. Okay.

20 And I mean -- I guess from ten years ago,
21 how has the industry changed since then with growers
22 spending money on advertising?

23 A. Well, we have -- the only monies we have
24 available are through our budget assessment. We have no
25 other way to get money, you know, so there's -- you

1 know, it's real hard to have paid advertising when you
2 don't have a budget.

3 MR. GALEAZZI: Your Honor, I'd like to
4 provide a suggestion or clarification to the reference
5 for the past.

6 The terms of what we heard with regard to
7 the "past attempt to review paid advertising," I had
8 somebody in our office and go back and look through our
9 documents. It appears that the last time the committee
10 discussed paid advertising, that was reference in 2006,
11 so 20 years ago was when the committee last discussed it
12 and decided, at that time, that they did not want to go
13 forward. So that way you have a reference. It was 20
14 years ago.

15 ARBITRATOR CARLOS: Okay. That was
16 Mr. Galeazzi.

17 Okay. I'm sorry. Go ahead.

18 MS. FUHRMEISTER: You're fine, Your
19 Honor.

20 Q. (By Ms. Fuhrmeister) For clarification, how has
21 the industry changed in 20 years with advertising or
22 their view towards advertising?

23 A. I think that the -- you know, those 20 years --
24 20 years ago, everything has changed. So, you know,
25 everything's -- you know, everything has changed. I

1 think 20 years ago, I don't think -- you know, 20 years
2 ago, shoot, I don't even know what year it was, but at
3 one point in our marketing order, we could not repack
4 our onions to the three-pounds bags in the 35 counties
5 inside of Texas because we were protecting the fruit
6 packers in New York, and that was -- that was taken off
7 before I got in. That would've been crazy, but that
8 was -- can you imagine?

9 That was something that they had to take
10 off the books probably 30, 40 years ago. We could not
11 pack -- repack our own bag, onions for retailers here in
12 Texas. So things change. I don't know what to tell you
13 about paid advertising. I know it's very crucial for
14 us, I think as an industry, in my opinion going forward
15 to be able to get more market share for our farms.

16 Q. Okay. Thank you.

17 A. You're welcome.

18 Q. Also, when you were referencing getting monies
19 to spend on marketing -- marketing by any means possible
20 and how that would benefit the industry, would that
21 include increasing assessment rates?

22 A. If -- you know, that's a tough thing for a
23 grower. You already assessing the assessment rate for
24 having inspectors to make sure that we have a number one
25 product, and make sure that they're not -- you know,

1 there's not people growing onions and packing them,
2 that's what -- that's what it does, to be able -- we
3 have a budget right now and I don't know if -- you know,
4 if the markets get better, then I don't think that
5 grower it is going to -- you know, if it's going to
6 help. I don't think, but in the claimants that were in
7 right now with the market that we're in, I think it's
8 very difficult to try to assess my money to a grower at
9 this point, in my opinion.

10 Q. Okay.

11 And you would say that's kind of what the
12 industry would say as a whole, correct?

13 A. I would say that, you know, if -- I think we
14 just need to start off slowly. If we could see a
15 guarantee traction and see that we are, you know, moving
16 forward and getting more sales and getting more market
17 shares and getting more money for our product, then I
18 don't think the growers are going to have a problem
19 having more assessment to pay for paid advertising, but
20 I think they'd have to see it first, show them first
21 that we're a fresh onion.

22 Q. Thank you.

23 A. Uh-huh.

24 MR. HARMON: Kerry Harmon, USDA.

25

1 CROSS-EXAMINATION

2 BY MR. HARMON: :

3 Q. It was mentioned earlier as it pertains to the
4 lack of onion growers and if they're not going onions,
5 then they're -- they're going to grow something else.
6 You mentioned that imports of onions.

7 Is it your belief that paid marketing
8 promotions, that that could increase both growers and
9 their participation in the industry as well as the South
10 Texas onion imports?

11 A. Absolutely.

12 Q. Thank you.

13 MR. MCFETRIDGE: Marc McFetridge, USDA.

14 CROSS-EXAMINATION

15 BY MR. MCFETRIDGE: :

16 Q. So if the paid advertising proposal goes
17 through, what is your understanding of -- or could you
18 kind of describe the process that the committee would go
19 through to possibly add more paid advertising for Texas
20 onions?

21 A. Yeah. I would think that that's something
22 that, you know, the committee is going to have to look
23 at. I would think you would look at -- you know, if you
24 have -- if we were able to get paid advertising, you
25 know, you would have to get a professional to look at it

1 and figure where is the most bang for the buck, how can
2 we start off and get the most bang for the buck at
3 first, and then as we go along, I would mention some
4 things. That's my personal opinions, but, you know,
5 these people are experts, whether it's digital, whether
6 it's TV.

7 Look at the avocados from Mexico at the
8 Super Bowl. They've done a great job within the last 15
9 years. They haven't even -- they haven't even been that
10 big of an influence benefit in it's 50 years, it might
11 be less, but, you know, I think you have to look at
12 professionally -- a professional look at it and see what
13 is the best bang for the buck, best options for us
14 starting off and then get future plans on how we can
15 benefit and grow.

16 Q. All right. Thank you.

17 So you previously stated that at this time
18 you think it would be difficult to get the growers to
19 possibly pay more assessments for paid advertising
20 because margins are so tight right now.

21 In the future, if things begin to progress
22 and it becomes more -- I guess the industry becomes more
23 profitable and you can see -- you can see possibly that
24 an -- or assessment rate increase could be possibly
25 proposed to increase paid advertising?

1 A. Yes, I do.

2 Q. So those assessments, those are paid by the
3 handlers, correct?

4 A. Correct.

5 Q. Okay.

6 Are sometimes those assessments -- or
7 those costs passed back to the producers?

8 A. They are, yes. They are.

9 Q. So based on your opinion, would you say that
10 any costs that would be possibly passed down to the
11 producers for a paid advertising program would offset
12 any benefits would possibly cost?

13 A. I think, you know, overtime, if it shows, I
14 think yes. It's going to take time. It's not going to
15 be something that we're going to be able to do in a year
16 or two. I think it's going to take the long-term
17 approach, but I think it can be done, and I think if a
18 grower is going to get more money for his onions because
19 we're able to advertise, I think he'd would be all for
20 it, more assessment if he is able to see that return in
21 his pocket.

22 Q. Thank you.

23 So early on you stated that the acreage
24 has shrunk in the valley.

25 A. Yes.

1 Q. Would you say that statement is true across all
2 growing regions?

3 A. No. No. No.

4 I think that we are being squeezed from
5 Mexico and from the Northwest and from Georgia. We have
6 three areas squeezing this year.

7 Q. So to clarify, across regions of south Texas
8 onion, would you say --

9 A. Oh. Yes, in South Texas regions. Around the
10 country, no. I think that -- you know, there's -- good
11 markets have, you know -- like I said, we're -- we have
12 a shrinking market here that was not like this -- maybe
13 50 years ago.

14 I mean, when I started in '94, it was
15 nowhere like this. I mean, it was, you know, it was --
16 like I say, it was a very orderly deal. Idaho,
17 Washington finished in February. Mexico started
18 February and went to March, and Texas started mid-March
19 and Vidalia started in May.

20 I believe they're pushing us is because
21 they transplant, so they're trying to make their impact
22 a longer window. So instead of them starting May 1st,
23 they're starting May 10th and all that's done is shrunk
24 our window to promote our Texas 1015s. So that's -- and
25 again, that's -- that's the issue right now. It's

1 how -- it's how it's been.

2 Q. Can you clarify "transplants"? What do you
3 mean by transplants with Vidalia onion?

4 A. So what they do is they go and plant a field,
5 very thick, one right after another, an inch or so apart
6 and then they grow up to a certain height and they bring
7 in people -- that's why they have H-2A. They bring them
8 in, pull them out of the ground and transplant them at
9 probably four and a half inches apart on a different
10 bed.

11 And they guarantee themselves a hundred
12 percent stand between time. We did not do that because
13 we don't have -- if we were -- you know, if we can get
14 paid and you can guarantee me \$20, with a two in front,
15 when I sold something with a two in front, then I can
16 transplant, right, but there's no guarantee, right, that
17 I have a \$20 market for my product.

18 They have done such a good job. That's
19 what they do, and they by doing that, they start their
20 market early, but that's -- they transplant and they get
21 themselves -- they're able to get off earlier because
22 they planted earlier, they take it out of the ground and
23 transplant it and they give themselves, like I said, a
24 hundred percent stand, where we direct seed, as we call
25 it, and we have to put it in the ground and try to come

1 up with a stand that will make -- let's just say, you
2 know, we got 11,000, 12,000 bags an acer, we probably
3 average here -- we're probably close to -- you know, if
4 you're doing it, I go on prayer, as we talked about. I
5 have been going on prayer for -- for -- since I started
6 growing.

7 But, you know, it costs a lot of money.
8 You ask me what it costs -- I mean, I guarantee you it
9 cost us nearly \$3,000 an acre to grow it, and, you know
10 -- you know, just say we get 800 bags an acer. What was
11 the cost? You know what I mean? You're -- you're -- I
12 got close to \$4 an acre. The cost -- it cost us almost
13 \$6 to harvest it all and pack it. We're going to break
14 even with \$10.

15 I don't know where they came up with \$8.
16 I was listening in the back and my math doesn't come out
17 like that, but I know what it cost to harvest it all and
18 pack it and I know what it costs to grow it, and it's
19 that much and, you know -- you know, I just -- that's
20 why we -- that's where the industry has shrunk because
21 we can't get more money for our product right now, and
22 we can't makes yields that someone like Vidalia could
23 because they have a hundred percent stand, right. They
24 have a complete -- every, every, every onion is there.
25 We don't. We plant, we grow it.

1 Just like this year, I planted it, I
2 watered it and it started coming of the ground and I got
3 three and a half inches in three days on top of what I
4 just planted. Those others, I don't have a hundred
5 percent stand on my first 30, 40 acres. Actually, we
6 planted 60, I kept 20. That's what we deal with in
7 South Texas.

8 Now, growers in Georgia, California New
9 Mexico, Washington, they don't have to deal with three
10 inches in three days or three inches and a half. It's
11 not -- just like last year. We had 20 inches in two
12 days. First time I'd ever seen that in my life. We had
13 20 inches in two days here in South Texas and we most of
14 our crop because of that.

15 So we deal with a lot of different
16 factors, mother nature, but, you know, it is -- we do it
17 because we love it. That's the risk you take to grow
18 onions. I enjoy it and that's why I do it, and it
19 gets -- it's nice when everything works out and we're
20 able to employ people and get people jobs and that's --
21 that's kind of the reason we do it.

22 Q. Thank you.

23 For clarification. You said a hundred
24 percent stand. You mean that every seed you put in the
25 ground, in Vidalia, they're getting --

1 A. So they plant a seed bed, right.

2 Q. Yeah.

3 A. And they pull that out and they have -- they
4 have it marked where that onion is going to go. That
5 onion is about that tall. It's already grown up when
6 they pull it out of the ground, and so they have a spot
7 and they have four lines on a bed or wherever they're
8 doing it. They have four inches or four and a half
9 inches between space and they put them all the way down.

10 So that bed is a hundred percent stand.
11 They're going to make a very good yield because they
12 have a hundred percent stand. We don't have that
13 luxury. Mexico has that luxury. We compete against
14 that down south in Tampico.

15 Why? Because they have the labor. They
16 can sit there and do that. We don't have the labor to
17 be able to do that. It cost too much, and Vidalia, as
18 we've been giving them kudos, you know, they've done a
19 great job and they're able to get more money for their
20 product so they have figured out a way that it cuts them
21 to use \$24 an hour labor to do that.

22 Q. Okay. Thank you.

23 A. Uh-huh.

24 Q. So cost of production -- so you're saying
25 closer to \$10 per 50-pound bag?

1 A. To get out of the field, take it to the shed
2 and with growing -- growers cost, yes.

3 Q. And I know --

4 A. That's breaking even.

5 Q. So this past year, where pricers were closer to
6 50 cents a pound, was that -- did that help you break
7 even?

8 A. Horrible. Horrible.

9 Q. Horrible.

10 A. It was a loss. Every package you did -- the
11 only thing else -- our saving grace was having 20 inches
12 of rain and took us out of our misery, and we didn't
13 have to, you know, do it.

14 I mean, that was honestly -- it was -- you
15 know, you're looking at selling something for \$5, \$6 or
16 \$8 and, you know, it was the showing you get \$8 or \$9,
17 and, you know, it was a struggle. You know, I sat there
18 every day -- you can ask my daughter. She just sat
19 there and was saying I'm sorry.

20 I could sell it for ten bucks and that's
21 the best I can do for you. Your neighbor down the road
22 can sell me for eight, you know, like what am I going to
23 do? You know, how can I -- I can't give them a bill.
24 How do you tell them that, you know, I can't give them a
25 bill. How do you give a guy a bill? You're going to go

1 harvest some onions and give the bill at the end of the
2 day? That's not the way it works.

3 So guess who's losing money? The handler,
4 the shed. If I sell any freight -- even if he's, you
5 know -- you know, you can't really -- you can't give the
6 guy a bill. There's no way.

7 You know, my dad and me talked about that
8 a long time ago when I was growing up. There's just no
9 way. You can't give a grower a bill. There's no such
10 thing. You know what I mean?

11 And the problem is, that's why the -- that
12 rain is kind of a godsend because there's just no reason
13 you do it. You shipped it -- you know, you ship it --
14 just say it sold for \$10, but you had problem and you
15 got \$4 back, but your freight was \$5. Who's taking that
16 lose? The shed is.

17 I don't know with other sheds, but in my
18 shed, I'm not going to give the grower a bill, you know,
19 so that was -- that was what we dealt with last year.
20 First time -- and I've been doing this, like I said,
21 since '94 selling and I have never seen that.

22 I've seen it in Washington. I saw low
23 markets. I remember one time it was, like, two bucks a
24 bag in Washington, but when we came back and when we
25 started here, it was better, right.

1 And also, it costs -- you know, I heard my
2 dad always told me when it was the 70s and 80s, it was,
3 like, \$500, \$400 an acre to grow. A acre now cost
4 \$3,000. That's what we're dealing with. You know, for
5 them they can sell for four or five bucks and survive.
6 We, you know, we suffer for \$4, \$5. You might do it one
7 year but you're not going to do it twice.

8 Q. So just for clarification, when you're saying
9 you're not going to give a grower a bill. You're
10 referring to -- basically, it cost you \$10 just to bring
11 it in, processing, everything --

12 A. That's what he needs to break even, is \$10.

13 I said, what happens if I bring something
14 in and it cost me \$6 bring it in, harvest it all and
15 pack it, right, and I ship it, and for some reason the
16 market goes bad.

17 Q. Okay.

18 A. That's where the money is lost in this
19 business. You know, you go and you think these crops
20 are ready to go, you bring in 30,000 bags of onions and
21 ship them -- you ship them out in two days and they get
22 to New York, right where he lives, and all of a sudden
23 you go 15 percent problems in it. You go through
24 inspection and all of a sudden you get back \$4, but it
25 cost you \$6 to ship it there.

1 Q. Uh-huh.

2 A. Now, all of a sudden, you lost \$6 to harvest it
3 all and pack it, plus you lost two bucks. Now you got a
4 total loss -- you lost \$250,000. You can't send a
5 grower a bill for that because you harvested it. You
6 know, like I said, it's a tough deal. Last year was a
7 tough deal, especially, because if the market is 20
8 bucks, you have inspection, they take out five and pay
9 you \$15, no big deal, right, but if you have an \$8 bill
10 and they give you \$4, you know, there's just -- that's
11 the reality of what we lived through last year and
12 hopefully it's not this year.

13 Q. Would you be able to expand just a little more
14 on kind of -- so we talked about the rain that happened,
15 but what were some of the other issues that kind of
16 combined(sic) in the 15 cents per pound logistics?

17 A. Well, production -- I haven't lost in what
18 we're producing. You know, Mexico probably -- I would
19 not know if they grew more onions or less onions. It's
20 hard to say, you know, we're not privy to that
21 information, but, you know, there's just too many onions
22 of those areas. You know, you have onions from -- you
23 have onions from Washington, Idaho, Oregon, Mexico, Peru
24 and Texas all at the same time and I think that's what
25 contributed to the onion market loss.

1 Q. Thank you. I think that's all I have. Thank
2 you.

3 A. Okay.

4 ARBITRATOR CARLOS: Okay. Don't go yet.
5 Anybody else?

6 MS. ANKEY: I just have one
7 clarification.

8 ARBITRATOR CARLOS: Okay. That's why
9 we're here. It's all good.

10 RE-CROSS-EXAMINATION

11 BY MS. ANKEY: :

12 Q. I just want to clarify for me understanding.
13 You mentioned the a hundred percent stand.
14 Were you referring to the necks?

15 A. No. I'm talking about the actual plants. A
16 hundred percent stand in the field on the row of onions
17 sitting on a 40 -- you have a bed -- you have a bed and
18 you're going to plant them, you put four onions on it,
19 they are taking these onions that they put in a bed,
20 already accrued a certain size --

21 ARBITRATOR CARLOS: Okay. So here -- I'm
22 just going to stop you.

23 For the record, when you say "that tall,"
24 the record can't see that. So when they get that tall,
25 how many inches tall? Ten inches? Eight?

1 MR. DAVIS: Eight inches.

2 ARBITRATOR CARLOS: Eight inches tall and
3 they take them out and they replant them.

4 A. They replant them into another field into a
5 bed, right, and they -- they take that because if
6 there's four onions in that bed, they have four and a
7 half inches between line of each -- go ahead.

8 MR. GALEAZZI: I just wanted to say I
9 think I can clarify that because there's a difference.
10 So what he's talking is in Texas because it's more
11 affordable.

12 You put the seeds directly into the field
13 and then water --

14 ARBITRATOR CARLOS: It's those people in
15 Georgia who did the hundred percent stand.

16 MR. GALEAZZI: Right. So what happens is
17 because you put the seeds out, there's no guarantee all
18 the seeds germinate --

19 MR. MURRAY: An insect might eat it.

20 MR. DAVIS: They germinated those, grew
21 them up and then they took them and planted them
22 somewhere else.

23 MR. GALEAZZI: So that's what transplant
24 is. They germinate everything, they only pick the ones
25 that actually developed eight inches. They take those

1 to a different field, which guarantees all those
2 transplants turn into commercial onions, whereas in a
3 seeding field here in Texas, if they don't germinate,
4 you lose that production.

5 MS. ANKEY: So that's a hundred percent
6 stand, right?

7 MR. GALEAZZI: Correct. A hundred
8 percent stand. In Texas --

9 MS. ANKEY: If you plant a seed, there's
10 no guarantee that --

11 MR. DAVIS: There's no way there's
12 guarantee you'll get a hundred percent.

13 MR. GALEAZZI: Right. And to transplant,
14 it's a very expensive process because they pick each
15 individual onion plant with millions of them growing in
16 each field is a hand job of somebody going -- laying
17 down on a tractor doing this, which is pitching with
18 their fingers each individual plant.

19 Q. (Ms, Ankey) And maybe I missed this, but what is
20 the reason for why we're planting from seed versus pre
21 growing them naturally?

22 A. Yeah. Well, we grow them by seed. We direct
23 seed because we can't afford to transplant them, right,
24 so I mean, I could -- I could try, but I don't think it
25 would -- I don't think it would pencil out. I mean, I

1 think you probably -- I don't know.

2 MR. DAVIS: Bret, do you know what it
3 cost to transplant? I know you guys did it one year.

4 MR. ERICKSON: I don't recall, but --

5 ARBITRATOR CARLOS: That's Mr. Erickson.

6 MR. DAVIS: Mr. Erickson. I'm sorry.

7 ARBITRATOR CARLOS: I think we're getting
8 a little bit -- if I do say myself, we're getting a
9 little bit off, but everybody seems to be fascinated by
10 it so can go ahead.

11 Who was talking? Mr. Erickson, sorry to
12 stop you.

13 MR. ERICKSON: I don't know the exact
14 cost. It's probably -- it's probably double. It's
15 because we would -- we would go to a greenhouse and pay
16 the greenhouse to grow those seeds, and then they would
17 delivered the seeds to us, and you're paying a whole
18 external service, plus then you've got the labor of
19 taking the trays and then poking a hole in the ground
20 and laying them.

21 ARBITRATOR CARLOS: Okay. I don't know
22 why that's relevant to these, but okay. I'm sorry.

23 Questions?

24 MS. ANKEY: I have no further questions.

25 Thank you, Your Honor.

1 ARBITRATOR CARLOS: Okay. Are we done
2 with Mr. Davis?

3 MS. CHILUKURI: Your Honor, this is not a
4 question. I just want to confirm this, Exhibit 12, has
5 been offered in --

6 ARBITRATOR CARLOS: It's been offered and
7 I'm going to admit it.

8 MS. CHILUKURI: Great. Thank you.

9 ARBITRATOR CARLOS: Okay. So what's the
10 plan? I'm good to keep on going. I believe -- is there
11 any other witnesses who want to end their testimony
12 today so they won't have to back tomorrow or do we want
13 to stop?

14 MR. GALEAZZI: Your Honor, yes. We would
15 like to ask that one more person testify so that way
16 they don't have to come tomorrow.

17 ARBITRATOR CARLOS: Yes, that's good.
18 Okay. That's why we're here. We're here to serve you
19 and we're here -- we appreciate your time and energy.

20 So Mr. Davis, thank you for your
21 testimony, and again, we appreciate the time and energy
22 that you put into this and we appreciate you taking the
23 day off.

24 MR. DAVIS: Thank you, Your Honor. Thank
25 you all for being here.

1 MR. GALEAZZI: Your Honor, next up will
2 be Ms. Kristen Davis.

3 ARBITRATOR CARLOS: Okay. Ms. Davis,
4 please take a seat. Raise your right hand.

5 KRISTEN DAVIS,
6 having been first duly sworn, testified as follows:

7 TESTIMONY OF KRISTEN DAVIS

8 ARBITRATOR CARLOS: Please state your
9 full name and spell your first name and your last name.

10 MS. DAVIS: My name is Kristen Davis.
11 Kristen, K-R-I-S-T-E-N. Davis, D-A-V-I-S.

12 Good afternoon. My name is Kristen Davis.
13 I am the food safety, HR, marketing, management
14 coordinator for Tex-Mex Sales and TM farms. I have
15 worked in the onion industry for over ten years.
16 Tex-Mex Sales is a mid-size family business located in
17 Weslaco, Texas. We are growers, packers and shippers of
18 onions for over 30 years. My family history and its
19 involvement in the produce history runs deep with
20 history with my grandpa, my dad and my great father all
21 being vastly involved in the onion produce industry.

22 I first joined the onion industry when I
23 was in high school working part time after school
24 grading, selecting and weighing onions as they are
25 packed. This was my first introduction to the industry,

1 experiencing firsthand all the hard work and dedication
2 it takes to pack a good quality onion pack.

3 As this being my exposure to the industry,
4 it made me really appreciate and recognize the effort my
5 grandfather, Marvin and my father, Michael haven taken
6 to become an intricate part of the industry. While
7 attending college at Texas A&M in College Station,
8 getting my degree in agriculture economics and a minor
9 in horticulture, I started work summers at Tex-Mex sales
10 being mentored by my grandfather Marvin and worked my
11 way up into the company as administrative, logistics and
12 sales. After graduation, I took the role of food safety
13 coordinator with the company. Today, six years later, I
14 now overlook food safety, human resources, marketing and
15 all management roles within the company.

16 Besides being a part of my family business
17 when I first graduated from Texas A&M, I presented the
18 idea of creating a subcommittee within TIPA for young
19 individuals working or wanting to join the industry as
20 well as a way to bridge the age gap with lifetime
21 produce industry, individuals with the younger
22 generation to be able to network, educate, collaborate
23 and discuss issues that affect our industry.

24 Fortunately, with the support of Dante
25 Galeazzi and members of the Texas International Produce

1 Association, we have been able to create an organization
2 for young individuals that allows for the space of the
3 younger generation to see benefits and opportunities
4 within the produce industry.

5 Any TIPPA member that is under the age of
6 35 years old have another way to network for
7 opportunities to network with fellow professionals with
8 TIPPA. I also been part of that South Texas Onion
9 Committee previously serving as the first woman vice
10 chairperson for the South Texas Onion Committee, and now
11 currently I sit as a produce member.

12 With my relatively short time in the
13 produce industry, I am here to express my support for
14 the four proposed amendments to the marketing manager.
15 I truly believe that with these changes, it will not
16 only help the industry and better position the Texas
17 1015 onion in the marketplace, but modernize our
18 marketing order to reflect the changes of new
19 technologies, the way consumers now shop for produce and
20 show an accurate market for our Texas 1015 onions to
21 consumers.

22 The inclusion of a public representative
23 on the committee will strengthen its effectiveness by
24 advancing transparency, broadening representation and
25 incorporating an independent committee perspective. As

1 stewards of an industry that nourishes both our
2 neighbors and our state. It is essential that we uphold
3 the public confidence in our work. Establishing this
4 public member position promote open dialogue and greater
5 understanding of the practices and initiatives that
6 support cultivation and production of Texas's state
7 vegetable, the Texas 1015 onion.

8 Secure external funding is essential to
9 advancing the Texas onion industry. With additional
10 financial support, we can accelerate the adoption of new
11 technologies, expect research into mechanical harvesting
12 and develop innovative varieties uniquely suited to our
13 region. These investments will strengthen our capacity
14 to compete and grow. Access to grants will also allow
15 us to leverage federal and state funding opportunities,
16 ensuring that every dollar that we invest, generates
17 greater returns for our growers and communities.

18 In the past, limited resources hindered
19 our ability to meet matching -- to meet matching
20 requirements and pursue these opportunities. As the
21 cost of research, media and creative development
22 continue to rise, outside funding has become vital to
23 sustaining progress and enhancing the market presence of
24 Texas onions across the produce industry.

25 As previously outlined, authorizing the

1 use of paid advertising would essentially strengthen the
2 committee's capacity to conduct outreach and promote the
3 Texas onion, the nation's first domestically developed
4 onion. Current restrictions on paid advertisement have
5 limited ability to effectively promote, educate and
6 conduct research that highlights the unique value of the
7 Texas 1015.

8 This variety holds a distinguished place
9 in the onion industry, not only for its pioneering
10 development, but also for the role its research has
11 played in improving numerous other onion cultivars.

12 Increasing advertising opportunities will
13 enable the South Texas Onion Committee to share this
14 story more broadly, communicate the distinct qualities
15 of our short day onion and engage a wider audience
16 through diverse marketing and educational initiatives.
17 Expanding these efforts will ultimately strengthen
18 recognition of the Texas 1015 onion and reinforce its
19 prominence during its celebrated season.

20 The current requirement of a 68 percent
21 supermajority in the referendum process has posed
22 challenges for equitable representation of onion growers
23 and shippers. As the number of producers in our regions
24 have declined in recent years, it has become
25 increasingly difficult to meet this threshold, thereby

1 limiting the industry's ability to act effectively on
2 key matters.

3 Adjusting the recruitments to a simple
4 majority to 51 percent would ensure that the decisions
5 continue to reflect the will of the majority while
6 streamlining the decision-making. This modification would
7 maintain fair representation of all producers and
8 growers reduce procedural inefficiencies and provide a
9 more practical framework for advancing or rejecting --
10 or rejected proposals.

11 In conclusion, with my short time in the
12 onion industry as a producer, I have witnessed firsthand
13 the challenges that the current federal marketing order
14 number 959 has represented -- have presented for the
15 South Texas Onion Committee.

16 Particularly, in limiting opportunities
17 for growth, innovation and equitable representation. As
18 our industry and communities continue to evolve,
19 implementing key updates, such as adding a public
20 member, securing external funding, authorizing paid
21 advertisement and adjusting the voting threshold to a
22 simple majority of 51 percent will position us to meet
23 the demands of a modern marketplace while preserving our
24 integrity and heritage.

25 These revisions will not only sustain --

1 not only sustain the proud agriculture legacy of the
2 Texas 1015 onion, but also ensure that continued
3 vitality, competitiveness and engagement of our growers,
4 handlers and the broader community.

5 I respectfully submit these
6 recommendations with confidence that they will both
7 strengthen both the Texas subcommittee and the future of
8 Texas onion. Industry. Thank you for your time.

9 ARBITRATOR CARLOS: Thank you. Okay.

10 CROSS-EXAMINATION

11 BY MS. EANKEY: :

12 Q. Thank you, Kristen.

13 Is it Kristin, Kristen?

14 A. Kristen.

15 Q. Kristen, under the small business
16 administration standards, would you be considered a
17 small business?

18 A. Yes.

19 Q. Are you also a handler as defined under the
20 marketing order?

21 A. Yes, but I -- well, yes, we are defined under
22 the marketing order. There's TM Farms, which my
23 father -- he's the representative for that as the
24 handler -- for the producer of the handler.

25 Q. Okay.

1 MR. DAVIS: You're producer.

2 A. Oh. I'm sorry. Yeah.

3 I'm the producer and he's the handler.

4 Q. Okay. Thank you.

5 Have you had an opportunity to study the
6 proposed amendments?

7 A. Yes.

8 Q. Do you believe that you understand them?

9 A. Yes.

10 Q. Were you involved in the discussions and
11 deliberations regarding the proposals?

12 A. Yes, since I first started.

13 Q. And from your experience, was there any
14 outreach that was conducted to inform and educate the
15 industry regarding the proposals?

16 A. Yes.

17 Q. Was there any opposing views that were raised
18 by committee members during the discussions?

19 A. No.

20 Q. Do you share the views of the committee and
21 support these amendments?

22 A. Yes.

23 Q. Do you acknowledge -- do all segments of the
24 industry, including small businesses, have the
25 opportunity to provide input on the proposed amendments?

1 A. Yes.

2 Q. Based on what you observed, do you believe the
3 proposed amendments have broad industry support?

4 A. Yes.

5 Q. Okay. Turning to propose a number one.

6 You mentioned in your testimony that you
7 are a relatively young-aged producer in the industry.
8 How does your perspective differ from that of earlier
9 generations?

10 A. I bring in, I think, a fresh new perspective.
11 Obviously, people that have been in this industry have
12 been doing it for -- like my dad, for 30 plus years, at
13 least. I, obviously, come from a generation that we
14 come from technology. The older generation didn't come
15 from that, and I am able to see how technology can push
16 our industry and help our industry in that way.

17 When back then, they didn't know what
18 emails were. Beforehand, they would send a fax, that's
19 just the way they did it back in the day or over the
20 phone, and it's being pushed -- emails is new for our
21 industry, but technology is relatively still new and
22 being a young producer in the younger generation, I have
23 lived with that so I am able to bring that perspective
24 into the industry.

25 Q. So to make sure I understand, as a young

1 producer, you are bringing in the perspective of new
2 technology that the older generation may not be aware of
3 to help improve grower returns and make the industry
4 more viable.

5 A. Yeah. At least in making changes that adapts
6 to the team, to adapt better.

7 Q. Thank you.

8 From your perspective, why is it important
9 to lower the continuance referendum threshold?

10 A. Lower the --

11 Q. Continuance referendum threshold. Under
12 proposal number one, it's to lower the threshold from
13 two-thirds to a simple majority for more than
14 50 percent.

15 A. Like my father mentioned, I think just a simple
16 majority represents the whole industry as a whole. If
17 we rejected or accepted whatever we're proposing, it's
18 going to represent the whole industry, 51 percent or the
19 majority 50 percent.

20 Like I said, being in the industry, my
21 father is very lucky when the first proposal went
22 around, but I was starting out so I got the mail and
23 brought it to his attention, but some smaller farmers
24 that don't have maybe their kids in industry or a new
25 fresh set of eyes, they're not going to put it on the

1 top of their list.

2 I was the one kind of nagging at my dad,
3 hey, what is this? That's how we got involved. Hey,
4 this is important. But there's not always someone in
5 their office and telling them, hey, this is important or
6 getting -- bringing that to their attention. That's
7 going to be kind of hard to keep it on the forefront of
8 their mind, so.

9 Q. Okay.

10 So to clarify, you're saying that the
11 challenges that growers have experienced may have
12 contributed to the fact of low voter turnout in
13 continuance referendum, but the simple majority, greater
14 than 50 percent, you believe is sufficient to measure
15 the support in the industry?

16 A. Yes.

17 Q. You mentioned that growers might be unfamiliar
18 or they might be busy and that could be the reason that
19 they were not able to participate.

20 Are there any other reasons aside from
21 what we heard today based on your experience why some
22 producers may not be able to participate in the
23 continuance referendum?

24 A. Not to my knowledge.

25 Q. Okay.

1 As a small producer, can you describe your
2 experience participating in past continuing referendums?

3 A. No. I participated in -- when I participated,
4 it was a 2021. That was my first year in industry,
5 actually. So that was a welcome to the industry, going
6 into 2020.

7 So like I said, I am the one that goes to
8 the post office. So I get the mail and I read the mail
9 so reading the mail, I saw that letter, brought it to my
10 father's attention and that's how I kind of knew about
11 it, referendums. I hadn't been produced to what the
12 marketing order was and just -- that's how I got more
13 and more involved into the South Texas Onion Committee.

14 Q. So you were there to assist in collecting the
15 mail working in your father's operation and that was how
16 you were able to know that the -- that was the
17 continuance referendum, but that may not be the case for
18 some of these other farmers.

19 A. Exactly.

20 Q. From your experience, does the opportunity to
21 vote equally assessable across producers of different
22 sizes?

23 A. Yes.

24 Q. You spoke about an age gap in the industry.

25 From your perspective, what challenges

1 does the committee face when trying to communicate and
2 market to younger consumers?

3 A. One thing is education. I don't think -- when
4 someone thinks about what a farmer does, they just think
5 about what they're doing when he's out in the farm.
6 They don't know what the produce industry actually
7 entails, the different aspects of it. We're not
8 promoted as much.

9 Produce is not something that's -- it's
10 like a doctor, something like that. So there's not a
11 lot of people going into the industry, and the lack of
12 education is -- one, it's not as fancy. You're out in
13 the sun all day, you're doing different stuff. You're
14 working long hours.

15 It's a lot of manpower and a lot of long
16 hours that need to go into it. So I don't think new
17 generations want to go into this industry and that's
18 creating a big lack of, I think, education, and people
19 wanting to get into it and that's also causing why we're
20 becoming smaller in our industry because there's a lot
21 of people not wanting to go into it.

22 So I think this is also going to help us
23 few growers and producers that want to be in this
24 industry, to have some sort of voice because if where --
25 so meeting that two-thirds majority and we're only --

1 three of us in it, or four of us, how are we going to
2 get the majority vote? Or how -- if we're such a
3 smaller group every time, how are we going to so?

4 I think it's going to help us become an
5 accurate representation as we try to keep promoting it,
6 but also as we grow, the few people that are still in it
7 or wanting to get into it, they're going to have some
8 sort of vote and voice without feeling that they need to
9 be the supermajority.

10 Q. You mentioned education to younger consumers
11 being the issue, that they are just not educated about
12 what goes on with South Texas onions, about the
13 production and harvesting and marketing of the
14 commodity.

15 How have changes in technology and
16 marketplace affected how maybe young consumers may have
17 learned or heard about South Texas onions?

18 A. They haven't and it's sad. Social media is
19 something that -- so paid advertisement is that we are
20 looking for. The only way we can get our story out
21 there is if South Texas onions or Texas 1015 is
22 promoting it or ourselves as growers, but we have so
23 many things that we're doing and it's so hard.

24 If we have paid advertisement or we have
25 people out there telling our story, we're able to get

1 people to know what a Texas 1015 onion is.

2 Right now, people only know northern
3 onions, which is a long day or they knew Gorgia,
4 Vidalia. No one really knows what Texas 1015 onion. We
5 need someone out there telling or story because we
6 are -- without Texas 1015 onions, there's no such thing
7 as a Vidalia sweet or there's no such thing as any other
8 onion and people need to know that.

9 They need to know that we're the first --
10 yes, we are the first domestic onion, but we're also the
11 first Texas first sweet onion that ever came, and
12 because of the Texas sweet onion, there is Vidalia
13 sweet. There is other sweet onions out there in the
14 marketplace, but because of Texas 1015.

15 That story needs to be told. That story
16 needs to be pushed and it needs to be promoted within
17 retailers, food service, not just consumers, yeah,
18 consumers need to know the story, but retailers need to
19 know too, because if retailers don't even know that the
20 Texas 1015 was the first domestic onion -- or is the
21 first domestic sweet onion out there.

22 Q. Okay.

23 So from your perspective, it's not so much
24 that the technology and the marketplace has changed, but
25 more so that South Texas onions hasn't -- the committee

1 hasn't had the authority to market and promote,
2 including paid advertising of South Texas onions in
3 order to reach the consumers?

4 A. Yeah, we don't have the flexibility to push
5 ourselves out there.

6 Q. And you support the amendments to add marketing
7 promotions and paid advertisement to address this issue?

8 A. A hundred percent.

9 Q. From your perspective, if marketing promotion,
10 including paid advertisement was approved, what type of
11 marketing or outreach would be effective in reaching the
12 younger audience today?

13 A. Like I said, getting our story out there, even
14 if it's -- with retailers, that's the number one thing.
15 Just get our story out there. Let people know that --
16 let people know -- there's people out there growing
17 their long day onions and Vidalia onions.

18 Like I said, we're such a small group,
19 we're very small growers. Out there, they have so many
20 more growers than we do. They're able to get their
21 story out. We're -- what did Bret say? We're 25 acers
22 and we're trying to push that throughout the whole
23 country, and other people have about 50 or more. That's
24 what we're trying to do. We need to get our story out
25 there. People need to know what a Texas onion is and

1 not just eat Vidalia because without the Texas onion,
2 there would be no onions in the United States.

3 Q. If the contribution authority were to be
4 approved, is it your perspective that the access to more
5 funds or outside funds will also help to support these
6 marketing initiatives?

7 A. A hundred percent.

8 Q. You mentioned the important of celebrating the
9 season for onions.

10 Why -- from your perspective, why is
11 marketing especially important during that time?

12 A. Because we are such a small -- two months out
13 of the year. Everyone else has six months out of the
14 year or more. We have two months.

15 So we need to be able to hit that market
16 and promote it as fast and efficiently as possible
17 because it's such a short timeframe that we have. So we
18 need to get it out, our story and we need to do it fast
19 and efficiently so people know it's there. It's two
20 months that you need to go get it and you need to, like,
21 buy it now.

22 Q. And would the authority conduct marketing
23 promotion, including paid advertisement during this time
24 period to benefit the industry?

25 A. It will benefit the industry.

1 Q. To improve consumer demand?

2 A. Oh. Yeah. Through marketplace, market shares.

3 Q. Turning to proposal number four, a public
4 member.

5 From your perspective, what do you see as
6 the expected benefits of adding a public member and an
7 alternate member seat to the committee?

8 A. It just adds -- like I said, it adds another
9 perspective. We're all growers and producers. We all
10 do the same thing every day, but if we have someone -- a
11 new set of eyes, a new set of ears, new set of -- just
12 ideas will help us get fresh set of ideas.

13 You never know where a good idea can come
14 from, and I think also to have that community outreach
15 helps us to -- just so we can also know what our
16 consumers or what are people looking for or how is the
17 best way to market it because maybe we think it's a
18 certain name and it's actually -- I don't know if this
19 is the way to actually do it -- and you never know. It
20 gives us a different perspective.

21 Q. Do you see any potential negative consequences
22 for adding a public member or alternate member seat?

23 Do you think it just generally will help
24 the committee function better overall to support the
25 industry?

1 A. I think it will overall.

2 Q. And why is advancing transparency and
3 cooperating community perspective important for the
4 committee's effectiveness?

5 A. Can you repeat the question?

6 Q. Why is advancing transparency and incorporating
7 community perspective into community decision making
8 important for the committee's effectiveness?

9 A. I think we have been so set in our marketing
10 order. We've had the same members for some many years.
11 I think it's nice -- like I said, I am one of maybe 2
12 members of the South Texas Onion Committee going into
13 the industry. So having that public member -- even
14 though it's just another set of eyes or set of
15 perspective that we don't have, it will help because
16 it's not like people are knocking on our doors wanting
17 to be part of the South Texas Onion Committee.

18 There is not a lot of people within our
19 group that wanted to be handler or producer so it just
20 adds that extra perspective for us, and as a small
21 committee, it just adds another member that can help us
22 out.

23 Q. In your testimony -- and this is just
24 clarifying proposal number one.

25 In your testimony, you mentioned the

1 simple majority of 51 percent will ensure the decisions
2 continue to reflect the will of the majority while
3 streamlining the decision-making process.

4 Is it your understanding that proposal
5 number one, the amendment to lower the threshold will
6 only change the provision for the referendum to lower
7 the threshold from two-thirds to more than majority and
8 does not effect how the committee make motions and
9 recommendations?

10 A. Yes.

11 Q. Is it your understanding that this amendment
12 does not change the threshold for referendum for
13 promulgation or substantive amendments?

14 A. Yes.

15 Q. Okay.

16 And earlier you stated this in the
17 testimony, but you support all proposals that are being
18 recommended today?

19 A. Yes.

20 Q. Do you believe these proposals reflect the
21 current needs of the industry?

22 A. A hundred percent.

23 Q. And is there anything else you would like to
24 share with us today?

25 A. No. Thank you for your time.

1 I really hope you will guys consider this,
2 especially, being a new member in the committee and a
3 new voice in the produce industry, I see the importance
4 of this change. The marketing order that we had back
5 then -- as life changes, there's changes everyday and we
6 need to have the marketing order to be able to adapt so
7 we are able to adapt.

8 Especially, if we're -- me being new
9 members and everything, it's a way for us to be able to
10 adapt and move within the industry and grow even though
11 we're a very, very small niche. We want to still be
12 present and strong and be able to be a good force within
13 the produce industry so that's it.

14 Q. Thank you for your testimony.

15 MS. ANKEY: I have no further questions.

16 ARBITRATOR CARLOS: Okay. Around the
17 table.

18 MS. McMURTREY: This is Michelle
19 McMurtrey with the USDA.

20 CROSS-EXAMINATION

21 BY MS. McMURTREY: :

22 Q. I have one quick question, I think.

23 In terms of the -- allowing outside
24 monies, provision three. There was testimony today
25 about using federal grants and I think the special crop

1 block grant was mentioned specifically.

2 Are there other opportunities through the
3 state that you're aware of that you-all could apply for,
4 if you were given this authority?

5 A. I believe so. I mean -- yeah, we -- the South
6 Texas Onion Committee, I'm pretty sure are aware of
7 those grants and everything. I'm not part of that
8 committee. I'm part of the marketing one, so yeah.

9 Q. Okay. Thank you.

10 MS. McMURTREY: That's all I have.

11 ARBITRATOR CARLOS: Next. Go.

12 MS. CHILUKURI: Rupa Chilukuri, USDA.

13 CROSS-EXAMINATION

14 BY MS. CHILUKURI: :

15 Q. Ms. Davis, you talked a little bit about
16 Y-TIPA. I just wanted to learn about it a little bit
17 more and also if it can make them a public member?

18 A. So Y-TIPA, it is a subcommittee under TIPPA,
19 which is Texas International Produce Association. It
20 started back in 2019, 2020, around there.

21 So it first came about -- I started
22 working in the industry when I was in high school and I
23 started going to the first show about ten years ago when
24 we first started and I was freshman in high school.

25 So the idea came about was -- I was not

1 looking, but obviously, a lot of the members in the
2 industry are a lot more older than me, about my dad's
3 and grandfather's generation. So networking was a bit
4 difficult in relating and so that's kind of how the
5 ideas sparked.

6 Bret and Dante were actually there with me
7 when I presented the idea with another friend of mine,
8 and they helped me kind of push Y-TIPA and help create
9 what it is today. So it's basically just a networking
10 social group under TIPPA for people in the produce
11 industry that are under the age of 35, just for us to be
12 able to network, get to know each other and without the
13 pressure of your boss or otherwise looking upon you as a
14 younger generation. So that's kind of how the idea came
15 about and that's what Y-TIPA is.

16 Q. Okay. Thank you.

17 So later in your testimony, you talk about
18 modernizing our marketing order to reflect new
19 technologies. We talked a little bit to what that new
20 technology is. I just wanted to see if you need to add
21 about, you know -- as being part of the younger
22 generation, what new technology the committee needs to
23 account for?

24 A. You know, the way my dad mentioned it. Retail
25 and everything is done through the phone. Everything's

1 on -- everything with technology advances so fast.
2 Also, with technology, it would help get the grants and
3 that money because there is technology out there that
4 will help our industry because there is AI. That's
5 being pushed in our agriculture industry. That's
6 helping so many -- like harvesting with an automatic
7 tractor.

8 There some many new research and
9 developments out there. Technologies that we could
10 maybe be pushing new technologies for our industry, for
11 how we farm, coming up with a solution that we didn't
12 have before. So that's -- new technologies I've seen,
13 obviously, there's not a lot in onions, but maybe we
14 could help create something for another market and
15 create a new technology to help our industry.

16 Q. And then continuing with your testimony, under
17 the allowing outside monies section, you talked about
18 how that could potentially be related to developing
19 innovative varieties uniquely suited to our region, and
20 I was just curious if you know about any research or
21 what's happening in that space.

22 A. I'm not a hundred percent familiar with what's
23 going on, but obviously, the Texas 1015 was created in
24 actual Weslaco, with the South Texas onion here in our
25 region -- so it can help maybe with a red onion or white

1 onion that maybe we have disease out here that will
2 help -- becoming disease resistant or create something
3 that -- a new -- completely new variety, so.

4 Q. So there could be a new variety that could have
5 a longer timeframe, shelf life or disease resistant or
6 who knows?

7 A. Who knows. There may be another sweet onions
8 that's not a yellow. You never know.

9 Q. And in front of you, you have Exhibit 9 that is
10 related to the proposed -- the revised proposal language
11 for 959.84 and I just wanted to see if you supported
12 that language.

13 A. Yeah.

14 Q. Yes? Okay.

15 And those are my questions. Thank you.

16 CROSS-EXAMINATION

17 MS. FURHMEISTER:

18 Q. So in your last paragraph in your testimony --

19 ARBITRATOR CARLOS: Name?

20 MS. FUHRMEISTER: Oh. I'm sorry.

21 Delaney Fuhrmeister for USDA.

22 Q. (By Ms. Fuhrmeister) You talked about the
23 engagement of growers, handlers and the broader
24 community for these amendments.

25 How would you see a greater engagement of

1 growers, handlers in the committee with these four
2 amendments?

3 A. Well, if we're able to promote it, we can
4 inspire a little kid to become an onion grower or an
5 onion salesman or an onion handler. You just never
6 know, but they don't know that's an option for them.
7 How would they know that they have an option to go into
8 it.

9 Like I said, it's not -- it's not like a
10 firefighter, a doctor, a lawyer. Like, hey, go be a
11 farmer, but it's something that -- it's essential.
12 Everybody eats. Everybody eats. Everybody uses an
13 onion at some part of their day.

14 Q. And just a follow up with that.

15 Do you think that with these amendments
16 for growers and handlers would get them more involved in
17 the committee?

18 A. I would hope so.

19 Q. Thank you.

20 MR. HARMON: Kerry Harmon, USDA.

21 CROSS-EXAMINATION

22 BY MR. HARMON: :

23 Q. You mentioned earlier that you had to go to
24 post office.

25 Would you say in a busy industry, that

1 this would be, typically, out-of-the-way for some voters
2 to be able to vote?

3 A. That's just the way we have it set up. We have
4 a post office to get our mail, but some may receive
5 their mail at the office or maybe at their -- maybe they
6 don't have a post office. I'm not exactly sure.
7 Everybody has a personal decision, but...

8 Q. Okay.

9 MR. MCFETRIDGE: Marc McFetridge, USDA.

10 CROSS-EXAMINATION

11 BY MR. MCFETRIDGE: :

12 Q. I had a question.

13 In your testimony, you stated that the
14 Texas 1015 onion was the first developed onion. So
15 developed sweet onion or developed onion in general?

16 A. Sweet.

17 Q. Okay. All right. I just wanted clarification.

18 There was another thing I would like to
19 say. Thank you for being a younger generation in
20 farming. That's really good.

21 A. Thank you.

22 ARBITRATOR CARLOS: All right. Ms.
23 Davis, thank you very much for your testimony. We
24 appreciate your time today and we appreciate your
25 enthusiasm for onions.

1 MS. DAVIS: Thank you, Your Honor.

2 ARBITRATOR CARLOS: Okay. I have some
3 administration stuff I want to handle.

4 First of all, can somebody tell me who
5 wrote Exhibit 9? Is that a USDA proposal? Yes?

6 MS. McMURTREY: Yes, Your honor.

7 Michelle McMurtrey for the record.

8 It is. It's not entirely what -- we've
9 been looking at the language to make sure that it's in
10 compliance with the agriculture marketing agreement act
11 of 37, and so they submitted a proposal, and we had some
12 discussions about clarity because I believe their
13 proposal specifies a simple majority.

14 And so we were thinking that, you know, if
15 we added -- if instead of saying simple majority, would
16 the committee support it if it was 50 percent.

17 ARBITRATOR CARLOS: Got it.

18 But here's my comment after reading it and
19 reading what the proposal said. Their proposal says,
20 the committee is proposing to reduce the threshold to a
21 simple majority measured by both number and volume.

22 And when I read this, it seems to be by
23 50 percent of the growers voting in a referendum or
24 growers of more than 50 percent of volume.

25 So that to me, means they're not saying

1 both number and volume, they're saying either number or
2 volume and that's a potential -- I see that as an issue
3 so I would reread this carefully because it doesn't
4 follow what the committee is proposing.

5 MS. CHILUKURI: And, Your Know, that's
6 the reason why we proposed this to the committee to ask
7 them to consider it.

8 ARBITRATOR CARLOS: Okay.

9 MS. CHILUKURI: So we would ask you to
10 take a closer look and -- thank you for pointing that
11 out.

12 ARBITRATOR CARLOS: Okay. Another thing
13 I wanted to point out is that it says -- if you're going
14 to use producers, you should use producers throughout
15 the entire wording of it. It shouldn't be producers and
16 then growers. So those are two simple things from
17 reading this that I don't think follows what's in the
18 proposal.

19 Next.

20 MS. FUHRMEISTER: Your Honor, may I
21 clarify something?

22 ARBITRATOR CARLOS: Yes.

23 MS. FUHRMEISTER: Currently in the order,
24 they do have it where the secretary would consider
25 termination of the order if less than two-thirds of the

1 growers voting in the referendum and -- of less than
2 two-thirds of the volume of onions represented in the
3 referendum favor continuance.

4 And we were reading that as the secretary
5 would consider termination if the vote failed on both of
6 the normal grower vote and the volume vote and that is
7 what we gave in this saying.

8 ARBITRATOR CARLOS: In this?

9 MS. FUHRMEISTER: Exhibit 9.

10 ARBITRATOR CARLOS: Well, that's how I
11 read it. I mean, based upon my reading of it, it says,
12 the secretary would consider termination of this part --
13 you guys want to pick up volume(sic) 9 and read along?

14 I just want to make sure that the proposal
15 follows your -- the way I read this, the secretary would
16 consider termination of this part if continuation is not
17 favored by more than 50 percent of the growers voting
18 the referendum.

19 Okay. So that's if it's not -- or growers
20 of more than 50 percent of volumes. So I see it as
21 50 percent -- more than 50 percent. One of the growers
22 might say, we don't want to be in.

23 Well, I'm trying to figure it out. I
24 don't like the use of "or". I think it should be both,
25 right. It's got to be both numbers and volume because I

1 potentially see a problem where by volume, they vote one
2 way and by number, they vote another way. Then what do
3 you do?

4 MS. FUHRMEISTER: Right. In that case --

5 MS. CHILUKURI: I think the act
6 permits -- we're basing on what the act would permit.

7 So we will -- we can clarify tomorrow and
8 we may have to recall Mr. Galeazzi to do this -- to
9 discuss it a little bit.

10 ARBITRATOR CARLOS: Okay.

11 MS. CHILUKURI: How it currently
12 operates, what they intended to do in their proposal and
13 what our proposed language is, to clarify. So I think
14 our clarification may have caused some confusion because
15 I agree with Judge Carlos that in here it says both and
16 we're switching to language that says "or".

17 ARBITRATOR CARLOS: Yeah.

18 MS. CHILUKURI: So that creates some
19 confusion.

20 ARBITRATOR CARLOS: Okay.

21 MS. CHILUKURI: But we're trying to
22 understand their intent, but we will try to do a better
23 job of getting that intent on the record so there's no
24 questions.

25 ARBITRATOR CARLOS: And I would love to

1 hear it again from Mr. Galeazzi.

2 All right. So it's been a long day.

3 Does anybody have anything else before we
4 end for today?

5 MS. CHILUKURI: Yes.

6 ARBITRATOR CARLOS: I hate you.

7 MS. CHILUKURI: This is helpful for all
8 of us.

9 Ms. Davis's testimony, was that entered
10 and offered as Exhibit 13.

11 ARBITRATOR CARLOS: I believe I did, but
12 just in case I didn't, Number 13 is entered into
13 evidence.

14 MS. CHILUKURI: Thank you. Perfect.

15 ARBITRATOR CARLOS: Thank you. I
16 appreciate everyone's time and energy today. I
17 appreciate all the witnesses. It's been a long day.
18 You-all did a great job. Thank you very much. It's
19 been a pleasure.

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25

1 THE STATE OF TEXAS °

2 COUNTY OF HIDALGO °

3 I, ANNETTE E. ESCOBAR, CATHERINE CARREON,
4 Certified Shorthand Reporter in and for the State of
5 Texas, do hereby certify that the above and foregoing
6 contains a true and correct transcription of all the
7 portions of testimony and examination and other
8 proceedings requested in writing by counsel for the
9 parties to be included in this volume of the Reporter's
10 Record, in the above-styled and numbered cause, all of
11 which occurred in open session or in chambers and were
12 reported by me.

13 I further certify that this Record of the
14 proceedings truly and correctly reflects the exhibits,
15 if any, offered by the respective parties.

16

17

18

19 Witness my official hand this 26th day of
20 February, A.D., 2026.

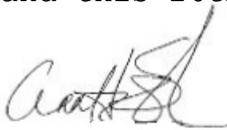
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