

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS**

**INQUIRY INTO MECHANISMS FOR ECONOMIC LOSS TO FARMERS IN
WESTERN AUSTRALIA CAUSED BY CONTAMINATION BY
GENETICALLY MODIFIED MATERIAL**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 11 APRIL 2018**

SESSION TWO

Members

**Hon Matthew Swinbourn (Chair)
Hon Colin Holt (Deputy Chair)
Hon Tim Clifford
Hon Samantha Rowe
Hon Dr Steve Thomas**

Hearing commenced at 11.01 am**Mr GAVIN BIGNELL****Operations Manager, CBH Group, sworn and examined:****Mr DAVID PATON****Government and Industry Relations Manager, CBH Group, sworn and examined:**

The CHAIRMAN: Good morning. On behalf of the committee, I would like to welcome you to the meeting. I will introduce us. On the left is Alex Hickman, who is the advisory officer. On his left is the Deputy Chair, Hon Colin Holt; and on the end there is Hon Dr Steve Thomas. On my right is Hon Samantha Rowe and on her right is Hon Tim Clifford. Before we begin, I must ask you to take either the oath or the affirmation.

[Witnesses took the affirmation.]

The CHAIRMAN: You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

The WITNESSES: Yes.

The CHAIRMAN: Thank you. The proceedings are being recorded by Hansard and broadcast on the internet. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to talk into them; ensure that you do not cover them with paper or make noises near them. They are very sensitive so we need to be careful about that. Because there are two of you, it is easier for Hansard if you try to speak one at a time. I am sure that you will do that, but it makes it a little bit easier for them on the recordings. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. I see that you have provided us with a written opening statement, so I presume you would like the opportunity to give that statement to us now.

Mr BIGNELL: Yes, if I could. I will read the statement and, as we said, we will table it with the committee.

CBH, as a co-operative that is owned and controlled by its grain-growing members, welcomes the opportunity to appear before this committee and provide assistance in relation to its inquiry. We provide this brief introductory statement, which we will table, to set out our position and, as far as possible, to respond in broad terms to those questions provided to us in advance of this committee. Firstly, as set out in our initial letter to the committee, we should note that CBH itself does not hold a position regarding the utilisation of GM technology by Western Australian growers. Instead, CBH's role as a grower-owned supply chain operator is to provide Western Australian growers with market choice by offering a robust and quality-assured grain supply chain that is able to store, handle and market GM and non-GM grain.

To make the session today clearer we thought it would be useful to provide a high-level summary overview of our grain supply chain and how we manage both GM and non-GM canola. A key part of that supply chain comprises the way trade standards are managed and also how receival standards are utilised to manage the quality of intake of grain at our receival sites and subsequent grading of that grain. All grain delivered to a CBH receival site is sampled and tested against our receival standards to determine the grain's quality parameters. The grain is then allocated with a grade based on those parameters, which determines the payment grade the grower is paid for that grain. Canola receival standards are typically based on trading standards set by the Grain Industry Association of WA—or GIWA. The current trading standard for the unintended low-level presence of GM canola in non-GM canola is less than 0.9 per cent, as approved by the Office of the Gene Technology Regulator. This trading standard has been adopted by CBH as our receival standard. CBH takes a sample of every load of non-GM canola that is delivered to any of our receival sites. Each of those samples is issued with a unique load number, which is tracked in the CBH computer system and identifies details about the load, including where the load is stored. For testing, a composite sample is created which comprises a small subsample of every load sample of non-GM canola. When the composite site sample accounts for 1 000 tonnes of non-GM canola received at a site, the sample is sent to CBH's Australian Grains Centre—AGC—in Forrestfield, a National Association of Testing Authorities accredited lab which tests for the unintended low-level presence of GM product in the composite site sample. If an unintended low-level presence of GM canola is detected, then each of the load samples that comprised the composite site sample are then tested individually in order to identify the source and location of the unintended low-level presence of GM canola in the non-GM stock. If at any of those stages testing confirms that a load of non-GM canola contains GM canola above the unintended low-level presence limit, CBH notifies the relevant grower to ensure they can investigate their relevant farm management practices.

The most important information to note is that loads that exceed the tolerance for GM canola are extremely rare. Over the last five harvests, an average of 0.04 per cent of non-GM canola loads have been found to contain unintended low-level presence of GM canola above the 0.9 per cent tolerance. Further testing then occurs when the grain is transported and received at our ports. A sample is taken for every 500 tonnes received at the port and tested for the unintended presence of GM canola. If the test indicates the presence of GM canola, the grain is further tested to determine the quantitative levels of GM canola. If found to be above the tolerance for unintended low-level presence of GM canola, the grain is isolated and regraded, if that is required. In CBH's view, the testing regime described is robust, sophisticated and has multiple safeguards to detect whether GM product exists in non-GM canola. As a testament to this, CBH can confirm that no shipment of non-GM canola from a CBH port has ever been rejected by an export market—whether domestic or international—due to the unintended presence of GM canola.

The CHAIRMAN: Thank you. We have provided you with questions in advance, and we find it useful to go through those questions, notwithstanding you have provided us with a statement, because it gives us an opportunity to engage in some further discussion. I am getting an indication from the deputy chair and Hon Dr Steve Thomas that they have some questions for you.

Hon COLIN HOLT: Just out of the opening statement, you say that over the last five harvests there is an average of 0.04 per cent of non-GM canola loads. Can you give us an actual number rather than a percentage?

Mr BIGNELL: I do not have that with me, I am afraid, but, once again, it is a very low number.

Hon COLIN HOLT: I am happy for you to take it on notice if you can supply us an actual number.

Mr BIGNELL: We certainly can take it on notice.

The CHAIRMAN: We will take it on notice. We will write to you following this to identify those questions on notice clearly, so if there are a series of them it will be quite specific as to what they are.

[11.10 am]

Hon COLIN HOLT: Just in my own mind, I want to get this straight. Once you have done your testing and you have found you have a contamination problem with a non-GM load, is that segregated and treated in a different way from everything else?

Mr BIGNELL: To make it clear, on receipt, the grain is graded based on the variety that the grower declares. Then it is stored in our receipt network based on that. The testing is done on a sample subsequent to receipts, so we will not identify the presence of GM material if it is above the unintended level until post receipt. Once we identify that, then we probably do know where it was received and we can go and do further testing.

Hon COLIN HOLT: You know what load it has come from, but once you put it into your system, it is mixed up with everything else

Mr BIGNELL: Yes.

Hon COLIN HOLT: With contamination of canola—this is about grades of canola, I guess—do you downgrade canola if there are other contaminants like weed seeds? That does not happen, or when you do your sampling, do you say, “There’s too much foreign material in this load—what happens with it?” Does that occur?

Mr BIGNELL: In relation to our normal practice for receipts, we have the right to downgrade loads for whatever reason, if required. On occasion, that does occur. It is quite rare but it does occur.

Hon COLIN HOLT: So you segregate GM and non-GM. Do you guys receive organic canola, organic wheat or organic produce at all?

Mr BIGNELL: Currently, no, we do not have any segregations for organic products, be it canola or any other products.

Hon COLIN HOLT: But do you receive organic? You do not know?

Mr BIGNELL: We do not differentiate it at all.

Hon COLIN HOLT: You do not identify it?

Mr BIGNELL: We do not identify it. If a particular grower has grown under certain practices, once it is received in our system, it is not identified or classified as being organic, no.

Hon COLIN HOLT: So most organic growers probably grow it and put it through a private marketing system anyway?

Mr BIGNELL: Yes, possibly. Certainly, if it comes into our system, the identity is not preserved.

Hon COLIN HOLT: It just becomes normal wheat or whatever else.

Mr BIGNELL: Normal products, correct.

Hon Dr STEVE THOMAS: I guess in a similar mode to that, rather than calling it organic—GM-free products—you have no classification of GM-free, you have no protocol specifically for GM-free, as opposed to a 0.9 per cent adventitious contamination, so you do not necessarily receive any product as GM-free? Would that be a fair interpretation of what you have just said?

Mr BIGNELL: Yes. That is fair. Our receipt standards, particularly for this occurrence, are exactly the same as the trade standards that GIWA adopts and we manage in the supply chain below the unintended level. But we certainly do not do anything over and above that as well.

Hon Dr STEVE THOMAS: So you effectively have two classifications of GM below 0.9 per cent as non-GM and over that as GM, effectively as a classification?

Mr BIGNELL: Our standard for non-GM canola is as per the GIWA standards; correct.

Hon Dr STEVE THOMAS: So just forward from that, Mr Chairman, it does say that you test every sample—every group is sampled. I am noting in your report, which was an excellent introduction, that 0.04 per cent of non-GM canola loads have been over the threshold. Do you have a measure of what proportion of crops GM material at any level has been detected in?

Mr BIGNELL: Other than canola?

Hon Dr STEVE THOMAS: No, in canola. Of all the canola delivered, you test every receival that comes in—every load. In what proportion of those loads would a detectable level of GM be picked up in your tests? You may need to provide that as additional information.

Mr BIGNELL: I think I would have to take that on notice.

Mr PATON: As Mr Bignell said, it is extremely rare—0.04 per cent.

Hon Dr STEVE THOMAS: But that is over the threshold.

Mr PATON: That is over the 0.9 per cent.

Hon Dr STEVE THOMAS: I am interested in that group of farmers who might effectively be farming without GM technology themselves. A proportion of those will come in with a very, very low level of adventitious contamination from neighbours et cetera. I am interested in what proportion of the receivals you have that come in with a detectable level of GMO.

Mr PATON: Sure. I am sorry; we do not have that information before us.

Mr BIGNELL: We will just take that on notice.

Hon Dr STEVE THOMAS: If we can ask for that on notice, that would be useful; thank you.

The CHAIRMAN: Without wanting to cover ground that you have already covered, just bear with me with the questions I have here. Some of those questions have been answered in your opening statement. One of the questions we have is: in a submission to this inquiry, it was stated that it is impossible to prove with 100 per cent statistical confidence that a product contains zero per cent GM without destroying the product. Could you provide feedback on that comment and is there a margin of error in your testing or what are the margins of error, because I think it is safe to presume that there are always margins of error? Do you agree with that sentiment that you could not have zero per cent product?

Mr BIGNELL: Yes. Certainly, we store and manage the integrity of the supply chain to the standard, which is below 0.9 per cent. That is what we can deliver to the market with confidence and that is the standard that we adhere to. In relation to your second question around confidence levels, the QPCR testing that we do at a 95 per cent confidence level does have a margin of error of 0.44 per cent, so there is a margin of error. But when we do our testing, if we detect anything to the level of 0.4 per cent—so, below the standard—that is when we will then do further investigations to, I guess, ensure that we cover off on any margin of error within the testing regime.

The CHAIRMAN: And it would be safe to assume that those people who receive wheat from you in other markets would also be testing at the other end, so that, for example, in the European market where the 0.9 per cent —

Hon Dr STEVE THOMAS: Canola, not wheat.

The CHAIRMAN: Did I say “wheat”? Canola; sorry. The other markets receiving the grain—let us use that term—or seeds would also be doing testing. Would that be a correct assumption to make, if they are receiving it on the basis that it is GM free?

Mr BIGNELL: I apologise; I cannot say definitively in relation to GM, but absolutely markets test for a whole range of quality parameters that we are required to deliver the product at. It would be a fair assumption that they would be testing for that as well.

Hon COLIN HOLT: So, as an example, with wheat, they might test for protein levels.

Mr BIGNELL: Correct. Our obligation as a supply chain provider is to deliver to the market the grain that they have bought on certain quality parameters, and they would be testing on those quality parameters when they receive a product.

The CHAIRMAN: And if it does not meet those parameters, do they come back to you or do they go back to the grower?

Hon SAMANTHA ROWE: Do you hear about it if there is a discrepancy?

Mr BIGNELL: It is actually quite a difficult question to answer because there is a whole range of scenarios depending on what it may happen to be. We are a bulk handler supply chain provider. There is always another intermediary, which is a marketer or a trader, who takes the product from us and then will deliver that to an end user. Often, if there is an issue, it will be between them.

The CHAIRMAN: Unless there is an allegation that you mucked up somewhere along the line in terms of your handling.

Mr BIGNELL: We have an obligation to provide a supply chain to give confidence for marketers to keep coming and buying grain from WA and we take that very seriously and that is the part we play.

The CHAIRMAN: Just in terms of a clarification, you talk about receipt. From the bulk handling point of view, what is the point of receipt? Is it at the farm gate, so to speak? Where does your responsibility start for what you are receiving?

[11.20 am]

Mr BIGNELL: That is a good question. It is at one of our receipt points. So the grower delivers their grain through their own transport mechanism. Either their own truck or a contractor delivers it to one of our receipt points, and we classify that—grade that grain, as we said—and then at some point through that process they will physically tip the grain out of the back of their truck into our receipt point, and from that point on we then take on the obligation to manage the integrity of that grain.

Hon Dr STEVE THOMAS: Just a quick question. To your knowledge, has CBH ever been asked for a genetically modified—free product in terms of export? Is the marketplace coming to you asking for GM free? You sell non-GM and GM. Have you been asked for GM free?

Mr BIGNELL: Not to my knowledge, but certainly I can take that one on notice as well—not to my knowledge.

The CHAIRMAN: We will take that one on notice as well.

Hon Dr STEVE THOMAS: You might want to put a time frame on that because you do not want to go back forever—in recent years perhaps rather than —

Mr BIGNELL: We can only go back so far as there has been GM in the market, so —

Hon Dr STEVE THOMAS: That is still eight years. That might be a bit much, but anyway.

The CHAIRMAN: I am not sure if this is a question for CBH, but I will ask it anyway. Are you aware whether GM canola can cross-pollinate with other crop varieties and in any other way contaminate them?

Mr BIGNELL: We are not aware. Our role once again is very clear. It is managing the supply chain and the integrity of a GM and a non-GM product. We are not aware; we do not have the expertise to answer that question.

The CHAIRMAN: Okay. I think that is fair enough. We asked that question of the department and they gave us an answer for it anyway. So do you test for the presence of GM only in crops that are of the same type. Again, I think you have answered this because you basically say you test everything that comes through in terms of canola, and then work out the level of contamination, if any, rather than whether or not you test for different varieties. You do not make a choice based on, “We’ve received this particular canola variety. We’re going to test it for GM.” All canola that comes through your handling is tested for the level of contamination.

Mr BIGNELL: All non-GM canola loads, a sample is collected and held, and then a composite sample that is tested—all of that is tested for non-GM canola; correct. Other products? It is only with canola that we do this.

The CHAIRMAN: Yes, because that is the only GM crop we have currently got.

Mr BIGNELL: Correct.

The CHAIRMAN: We note that the CBH delivery and warehousing terms contain a number of provisions regarding GMOs such as the grower representing and warranting that none of the grain in a delivery is a GMO unless declared to be. CBH does not provide a warranty or guarantee that any grain received from the grower is free from the presence of GMOs, and the grower indemnifying CBH. Could you give an overview of the rationale for those provisions? This is in your delivery and warehousing terms document, which we have a copy of here and which is the current one as of 3 October 2017.

Mr BIGNELL: Sorry; could you just repeat the first part of the question again?

The CHAIRMAN: The context of the question is that these are your terms and conditions that you have here, and within that you make a number of provisions, one of them being that the grower represents and warrants that none of the grain in a delivery is a GMO unless declared to be—that is the first one; secondly, that CBH does not provide a warranty or guarantee that any grain received from the grower is free from the presence of GMOs; and, thirdly, that the grower indemnifies CBH.

Mr BIGNELL: Okay; no problem. The first part of the question around the grower providing a warranty is that specifically in relation to GM the standard is very clear, that it is about an unintended low-level presence. So it is fair and reasonable that we ask the grower to declare that to the best of their knowledge there is no presence at all of GM materials. That is the warranty. I guess, just to add to that, once again our supply chain starts from our receival point, and we do not have control over the practices that a grower does on farm. We have no control over that, so we ask them to declare that those practices are as needs to be.

The second question about the fact that we do not declare that it is GM-free is similar to, I think, the member’s question prior. We store and manage our supply chain in relation to the standard, which is below 0.9 per cent, so we certainly do not commit to anything above that. Finally, indemnity: that is a standard requirement of growers regardless of GM or any other delivery issue. Once again, to deal with this factor, we do not control the grower’s on-farm practices, and if something occurs and there is an economic loss on the back of that, we have the option, if required, to go back and seek damages from the grower. Hopefully, that answers your question.

The CHAIRMAN: I think it does, but you have additional —

Hon Dr STEVE THOMAS: If I could, I think, interpret. What I think you are saying is that it is effectively impossible for CBH to guarantee that any particular receival is GM free, as opposed to non-GM, and the indemnity issue is therefore about not being able to make that guarantee. Would that be a reasonable interpretation?

Mr BIGNELL: I think that's just slightly different. Certainly, I agree that we definitely cannot guarantee GM free because of, once again, the standard, and that is what we adhere to. The indemnity one is consistent with all our receivals. A grower may have delivered a product, we receive it, store that grain, and then subsequently there may be an issue, be it insects or some other issue may occur, and we reserve the right to seek damages if that has a negative effect on the supply chain or the markets that the grower's grain is going into.

The CHAIRMAN: If seed is found to have GM contamination when a grower has warranted that it is non-GM, is one part or the whole delivery then reclassified as GM; and, if so, at what level of contamination does this occur? Is it 0.9 per cent or is it higher or lower?

Mr BIGNELL: Once again, when the grain is delivered, upon receival we do not know the answer to that question until the testing is done and we know exactly where that grain goes and we know where it has been stored. If a particular load has been identified as being above, we will notify that grower, as I went through in my opening statement. We do not as a matter of course regrade that load. Often, if it has occurred, it has gone into a stack, and the stack in itself—that whole stack of grain—is still well within the low-level unintended limit, so we can still manage that grain through the supply chain. Our first matter of course is to make the grower aware and they can review their on-farm practices, but we do not typically regrade their grain unless it is required.

Hon COLIN HOLT: So you kind of shandy it up, for want of a better word.

Mr BIGNELL: Yes; I would like a better word than that!

Hon COLIN HOLT: Provide us with a better word.

Mr BIGNELL: No, no. I mean this is an important point. What we do not do is blend. The reality is, if a load has been delivered but it does not cause a negative consequence on the stack as whole, then we are still very comfortable we can manage that stack through the supply chain.

The CHAIRMAN: And then if it is over the threshold?

Mr BIGNELL: If there was a requirement to regrade a stack for any reason, be it this or another, through our terms and conditions there is the option for the grower to have to wear any damages. As of today, we have not had that requirement specifically in relation to this matter. It has not occurred.

The CHAIRMAN: Forgive me for my ignorance, but a stack would include grain from different growers?

Mr BIGNELL: Multiple growers—yes, absolutely. So when growers deliver their grain to one of our receival points, multiple growers can deliver with multiple trucks, and then that is, I guess, segregated into stacks of grain that have common quality characteristics.

The CHAIRMAN: Are all the farmers or the producers who are affected by that stack notified that their stack has been affected by a genetically modified material that is above the threshold?

Mr BIGNELL: The other growers who have delivered grain into that stack, provided the overall stack—which has absolutely been the case every time—is still below the 0.9 per cent, there is no effect on those growers. So no is the answer to that.

The CHAIRMAN: So you have not had a scenario where a stack has been greater than 0.9 per cent as such —

Mr BIGNELL: No.

The CHAIRMAN: — or had an amount that has gone into that stack, which by consequence of it being together then gets diluted? I know you said you do not dilute it, but it is a —

Mr BIGNELL: Correct. No, but diluted, true. That is correct. It goes into a common stack. We have not had any stacks that we have had to downgrade.

[11.30 am]

Hon Dr STEVE THOMAS: If I could just jump in on that point, you are effectively saying that at the 0.9 per cent adventitious contamination level, you have not had to reclassify a stack as yet. Would it be the case, then, that on non-GM canola, there would be effectively no cases that have arrived at CBH where a financial impost would have occurred?

Mr BIGNELL: Have there been no cases where a financial impost has occurred?

Hon Dr STEVE THOMAS: No delivery of non-GM canola has resulted in it then becoming GM and then there being, at the end of that, because of the reclassification of a stack, a financial impost for that so the price has changed because of that?

Mr BIGNELL: We have had incidences where to ensure we managed the integrity through our supply chain where we have taken a conservative approach and had non-GM canola delivered and something has occurred and we have put that into a GM stack. That has occurred.

Hon Dr STEVE THOMAS: So does that have a financial implication?

Mr BIGNELL: It does not because, ultimately, through the supply chain there are occasions when a marketer will be indifferent as to what goes on their vessel. If it is a non-discerning market, they might put genetically modified and non-genetically modified canola together so we can recover that. I will say that those occurrences are very, very rare and this is a small number of tonnes across a large number of products.

Hon Dr STEVE THOMAS: I understand you are saying that there is effectively no financial impact on the producer that has supplied that product.

Mr BIGNELL: No, in those instances we have not done that, no.

Hon Dr STEVE THOMAS: If there is no financial impact, effectively—we are just talking about your company, of course—on non-GM versus GM and the 0.9 per cent contamination level, would there be a significant impact on CBH if GM-free was instigated? If there was a compensation requirement for what might have been GM-free canola that would then be transferred to a non-GM, would you then have to develop a whole new sort of receival process for GM-free versus non-GM? What sort of impact would that have on the operations of CBH? If that is too big a question, we can have that on notice and maybe come back as well.

Mr BIGNELL: I probably would like to take it on notice, but I am happy to make a comment that whenever we have a new receival grade for anything—for a different barley variety or whatever it happens to be—there are just considerations we have to put in our supply chain. It is, essentially: can we receive that grain and classify it correctly and then maintain the integrity of that product through the supply chain? I guess it is a little bit hypothetical, but if there was a GM-free, certainly we would not be doing that today. We would have to look at what the considerations are for our supply chain to be able to give the market confidence that we could deliver that product.

Hon COLIN HOLT: You have different canola grades on receipt, so one would be GM and one would be non-GM. Are there any others?

Mr BIGNELL: We do have simply a canola 1 and canola 2. That is completely separately to do with GM or non-GM. That is simply in relation to other quality parameters, speaking around admixture. We do have other grades of canola. I do not have the numbers in front of me, but the vast majority of our products is in either the GM one or non-GM one.

Hon COLIN HOLT: Is there a price differential?

Mr BIGNELL: For GM and non-GM? I am not a trader, but my understanding is that I guess a ballpark we look at is \$A30 a tonne between non-GM and GM, but of course that will vary depending on the market and time and date and all those kinds of things.

Hon COLIN HOLT: Would you guys have access to that information you could supply to the committee on that price differential, because I would assume you have to pay it back to the cocky, do you not?

Mr BIGNELL: No. I will make this point clear: our role is, once again, managing the supply chain as far as operations go and we ensure that we receive the grain from the grower, grade it correctly and then, when a transaction happens and the grower transfers the entitlement to that grain to the market, our job is to make sure we give the market the grain they bought.

Hon COLIN HOLT: Pick up the right stack.

Mr BIGNELL: Exactly.

The CHAIRMAN: You are not buying the stuff from the farmer and then selling it.

Mr BIGNELL: No, we are not in the transaction. We are, essentially, akin to a warehouse provider. We provide a warehouse service and change of entitlement can occur through that process. Our job is to make sure that what the grower delivers is the same thing that the market gets at the other end. The transaction happens at an arm's length from us.

Hon COLIN HOLT: So we would have to go to a marketer or a seller to get that info?

Mr BIGNELL: Correct.

Hon TIM CLIFFORD: According to the Department of Primary Industries and Regional Development, currently it is 70 to 75 per cent non-GM and 30 per cent GM roughly. If GM increases, do you think that will affect any of your reclassification processes or the way that you dilute some of your stack? When it was introduced into the market and it was at, say, five per cent, were you looking forward to see, trying to predict how it might affect the way that you handle your product if it does increase over a certain threshold, like 60 per cent?

Mr BIGNELL: It will not affect how we manage our supply chain. We will have to make different decisions in regard to more of our receipt points might be receiving GM material, GM canola, as opposed to non-GM canola, so we might switch what receipt points receive that grain. Regardless of the mix of the product, we have our systems in place to ensure we can maintain the integrity of non-GM and GM. Of course, the mix varies across different areas. We just adjust our receipt points accordingly. So, no.

Hon SAMANTHA ROWE: Apologies if you have already explained this, at the receivables point, is there a separate receivables for the GM crops and the non-GM crops or are they all going to the same receivable warehouse?

Mr BIGNELL: No, it is a very good question. So, we have a combination of things. CBH has 200 receipt points, but on any given year we do not use all of those, so we may use 100 to 130 of those.

Not all of those receival points receive canola. Some of those receival points may be GM canola only. Some may be non-GM canola and there will be geographic distance between them—50 kilometres or whatever it happens to be. There are some receival points, not the majority, that receive both at the same receival point, but certainly the grain is segregated in completely separate stacks. So, they go through a separate flow path and are received in completely separate locations within that receival point.

Hon SAMANTHA ROWE: I do not know if you can answer this, but if they are going to the same receivable point, can there be any chance of contamination during that period?

Mr BIGNELL: When they go to a receival point, the first activity at that receival point is for us to take a sample of that grain and classify that grain and in this case “Is it GM or non-GM?”, which is based on the grower declaration of what variety it is, and from that point on we manage where it goes. Can an error occur? I guess it is possible, but it has been extremely low. Because of our testing regime, we are still extremely confident we are well below the 0.9 per cent.

The CHAIRMAN: Can you just clarify for us or just go through that if a shipment is classified as GM, what steps are taken? You have a crop that was supposed to be non-GMO and you have then discovered contamination in it at any level, what do you then do following that? What communications do you have with the grower, the buyer, the licence holder, the technology provider? What price is paid—I do not think we will deal with price because I think you have made it fairly clear that price is not an issue for you guys in the way you handle it? If you can just deal with what you do once that happens. You have indicated previously that you would go back to the grower. How do you do that? Are there other communications with other buyers and licence holders for the gene technology and that sort of stuff as well?

[11.40 am]

Mr BIGNELL: Absolutely. If it is identified, we go back to the grower in two ways: we send them a letter so they clearly get that communication that this has occurred. We also call that particular grower. From that point on, we do not do any further communication with any of those other parties that you mentioned primarily because we believe our role is to go back to the grower, let them know this has occurred. They look back into their farm practices and then, to be honest, it is up to them to explore their farm practices as to how that may have occurred. That is what we do. We have had to do that. We have not had any instances of having to go to a grower on multiple occasions. Every time we have had to do this so far, the following season we have not had an issue with that particular grower, but we do not go back to any other parties, no.

The CHAIRMAN: So there is no regulator that you would report it to?

Mr BIGNELL: No.

The CHAIRMAN: You do not report it back to the licence holder or technology provider or anything else like that?

Mr BIGNELL: No.

The CHAIRMAN: The samples that you take of product received as non-GM but found to have GM, do you keep those samples?

Mr BIGNELL: Yes. When we take a representative sample from every single truckload, depending on what happens subsequently with our sampling regime, we may have a requirement to go back and test to find the individual truckload that any issues came from. Of course if we have to do that, we will. We do keep the other samples, but they are disposed of prior to the next harvest, which is roughly near nine months' time. We will keep them as long as to make sure we have gone through

the entire supply chain, make sure there is integrity with the non-GM stacks we have got, but prior to the next harvest happening, if no issue has been identified we will dispose of them.

The CHAIRMAN: Do you provide those samples and the results of those sampling to any third parties?

Mr BIGNELL: No. We use it for our own internal use to, once again, ensure we can have real confidence and provide integrity in our supply chain. They are for our own internal use.

The CHAIRMAN: In your submission you state no shipments of grain have been rejected by export markets due to their unintended presence of GM canola. Has this been because any GM contamination has tested at a level of 0.9 per cent or lower, or, if they are higher than 0.9 per cent, they are classified and sold as GM—you do not sell them, but are then classified as GM by the marketer?

Mr BIGNELL: Through the testing of our supply chain, if anything was to go out—any hold of grain was to go out above the unintended level, it would have to go out as GM canola. Every single vessel to date that has left one of CBH's ports that has been non-GM canola has been below 0.9 per cent.

The CHAIRMAN: I think the question here is whether or not you have found a contaminated load and the very small amount that had been found to be above the 0.9 per cent, whether or not that is then reclassified as GM and therefore that is why we do not have any rejected —

Mr BIGNELL: No. Once again, when the grain is delivered as an individual load, which is in the vicinity—it varies quite significantly but if it is in the vicinity of 50 tonnes of grain, gets delivered into a stack of grain that is in the vicinity of 10 000 to 30 000 tonnes of grain and then managed through the supply chain, it is not until post—that delivery that we understand if there is an issue. But the entire integrity of the stack has not been an issue at all, so we have had confidence we can then move that grain through our supply chain. We test it again at our ports, just as a further stopgap. If we have not had any issues, we can put it on a vessel.

The CHAIRMAN: You indicated, I think, in your opening statements that you have not had any shipments rejected in the domestic markets either. You have said no rejection internationally, no rejection domestically.

Mr BIGNELL: Correct.

The CHAIRMAN: That is correct; okay.

Hon Dr STEVE THOMAS: I have got one a bit out of left field, if you do not mind, Mr Chair.

The CHAIRMAN: Go ahead.

Hon Dr STEVE THOMAS: My understanding is that CBH invests in some end-user technology throughout Asia and that you are using some of the Western Australian product, mostly wheat, I understand, end product. Are you using any canola in any of your international investments? If you are, do you differentiate between non-GM and GM in terms of what you take to use?

Mr BIGNELL: No. We have a joint venture arrangement and this is not part of my remit other than to say that they are flour mills and we have a malt house—so wheat and barley.

Hon Dr STEVE THOMAS: There is no canola that you are using from the WA marketplace?

Mr BIGNELL: No, not in there. Certainly we do not have those facilities; no.

The CHAIRMAN: Do you actually receive any shipments from growers that are deemed or classified organic rather than simply non-GM as a separate category?

Mr BIGNELL: No, we do not. We do not have a receival standard or a trading standard that we operate in for organic grain. Once again, if a grower chooses to grow with an organic method, but if they deliver it to one of our receival points, at that point in time it will be classified as if it is wheat, for example, and it will be traded and it negates the normal standards. We do not currently have any organic segregations, no.

The CHAIRMAN: The committee notes that the Agricultural Practices (Disputes) Act 1995, which provided for a board to determine disputes between neighbouring landholders, was repealed in 2011 because, according to the second reading speech, there was no need for the act because it was very rarely used. Does CBH believe in non-litigious dispute resolution mechanisms designed to settle disagreements between neighbouring farmers may be appropriate for any disputes regarding matters such as GM compensation?

Mr BIGNELL: CBH—we do not have a view on this.

The CHAIRMAN: Okay.

Mr BIGNELL: Once again, our role is very clear: we need to offer a low cost, high integrity supply chain to ensure growers, whatever they choose to grow, get the maximum value for that in the market at a reasonable cost. But we do not have a view on this particular issue.

The CHAIRMAN: I suspect, leading into my second question, I will get a similar answer: there has been a difference of opinion amongst submitters to this inquiry about whether the common law provides sufficient coverage for any damages by GMOs. Some submitters state it does and others that it is inadequate because of the decision in *Marsh v Baxter*. What is your feedback on whether the common law provides an adequate mechanism for compensation for any economic loss caused by GM contamination or whether another mechanism might be more suitable?

Mr BIGNELL: Sorry, we do not have a view.

The CHAIRMAN: You do not have to apologise for your answer. I think it is important that the position that you have put is very clear —

Mr BIGNELL: Our position is we do not have a view on this.

The CHAIRMAN: — and that it is important for us to hear that. If you do not have a view, that is highly appropriate.

Hon COLIN HOLT: You guys may or may not know this: our split in Western Australia is about 70–30. What is the split in other states and even like, say, Canada? Can you give us any ballpark?

Mr PATON: For GM–non-GM?

Hon COLIN HOLT: Yes, GM–non-GM canola.

Mr BIGNELL: I do not know.

Hon COLIN HOLT: I do not really expect you to know off the top of your head. I just thought I would ask.

Mr BIGNELL: I am just trying to keep WA going!

Hon COLIN HOLT: You guys have been dealing with GM now for seven or eight years and it seems like your standards are pretty good because you have managed to have no rejections of any product. Has the incidence decreased in the way you have handled the product over the years? Are you getting better at it? Your standards are pretty high as it is. You may or may not know, but are you getting better at it?

Mr BIGNELL: There are two questions. We have put in additional controls and practices when GM was introduced and we continue to refine those and make sure that we have—we have to take it very seriously. We have to provide the market confidence that we can deliver what the market wants. Yes, we would like to think we are improving in how we do that, certainly.

[11.50 am]

Hon Dr STEVE THOMAS: We are coming to the end of the hearing so I might jump in with this question. Given that the inquiry is called the “Inquiry into mechanisms of compensation for economic loss to farmers in Western Australia caused by contamination by genetically modified material”, from the evidence you have given us from CBH’s perspective, it would appear as though there is effectively no economic loss through your system. Can you, therefore, give us an opinion as to whether, in the view of CBH, a mechanism is required for compensation for economic loss due to genetically modified contamination?

Mr PATON: We do not have a view on that.

Hon Dr STEVE THOMAS: It is the name of the inquiry and if you have made a submission, you would think that there would probably be a view.

The CHAIRMAN: I think they answered that when I asked that question as well.

Hon Dr STEVE THOMAS: I was just a bit more blunt, Mr Chairman.

The CHAIRMAN: That is your way, I think.

Hon Dr STEVE THOMAS: That is very true.

The CHAIRMAN: I have one more question. Do you have a list of traders and marketers for the sale of non-GM canola that you can provide to the committee? I want you to take that on notice because you will not have that with you today, so I am asking you for that now and we will put that to you on notice.

Mr PATON: Certainly, we will take that on notice; yes.

The CHAIRMAN: Thank you for your time today. A transcript of this hearing will be forwarded to you for correction. If you believe that any correction should be made because of typographical or transcription errors, please indicate those corrections on the transcript. There have been questions on notice, so the committee requests that you provide your answers to the questions taken on notice when you return your corrected transcript of evidence. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee’s consideration when you return your corrected transcript of evidence. Thank you for your time today.

Hearing concluded at 11.52 am
