

**Attachment 1**

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of GOLDFINCH ENERGY  
STORAGE LLC.

For an Order Declaring that the Goldfinch  
Energy Storage LLC's purchases of biodiesel  
from the Chevron – Renewable Energy  
Group's Grays Harbor Facility, or similarly  
situated biodiesel producing facilities,  
qualifies as a "renewable resource" under  
RCW 19.405.020(33)(h) for use in electric  
power generation qualifying under RCW  
19.405.040(1)

DOCKET UE-240653

COMMISSION STAFF'S  
RESPONSE TO GOLDFINCH'S  
PETITION FOR A  
DECLARATORY ORDER

**INTRODUCTION**

- 1* On August 30, 2024, Goldfinch Energy Storage LLC (Goldfinch) filed with the Commission a petition for a declaratory order approving as eligible renewable resources, purchases of biodiesel from the Chevron – Renewable Energy Group's Grays Harbor Facility, or similarly situated biodiesel producing facilities, qualifies as a "renewable resource" under RCW 19.405.020(33)(h) for use in electric power generation qualifying under RCW 19.405.040(1).

**STAFF RECOMMENDATION**

- 2* Staff recommends the Commission issue a declaratory order that:
- 3* Adopts a date certain for qualifying biodiesel. Finding that crops grown on North American land that are used in the production of renewable biodiesel and forested before 2010 qualify as "not derived from crops

raised on land cleared from old growth or first growth forests;” under  
RCW 19.405.020(33)(h);

- 4 Find that the fraction of renewable biodiesel Goldfinch purchases from the  
Grays Harbor Facility is from the portion of renewable biodiesel derived from  
crops grown on those portions of the North American land that have not been  
forested in modern times, thereby qualifying as “renewable resources” for  
purposes of RCW 19.405.040(1), particularly including RCW  
19.405.040(1)(a) and RCW 19.405.040(1)(b); and
- 5 Affirms that the Commission maintains its ongoing authority to determine the  
status of the power from each facility, should the underlying facts change in  
the future. The Commission retains its authority to examine factual changes in  
the origin of the feedstock from which the renewable biodiesel used at each  
generation facility is derived and to determine if the renewable biodiesel  
continues to qualify under its interpretation of RCW 19.405.020(33)(h).

#### **BRIEF BACKGROUND**

- 6 Goldfinch is a renewable energy developer engaged in the business of  
developing renewable generation facilities in Washington. Goldfinch is  
currently developing three generation facilities in Washington for the exclusive  
purpose of producing electricity from renewable biodiesel resources in  
compliance with CETA.
- 7 Goldfinch notes that their ability pursue these developments hinges on  
purchasers having assurances that the biodiesel that Goldfinch plans to use is  
compliant with RCW 19.405.020(33)(h)<sup>1</sup>. Namely, “(33) ‘Renewable

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<sup>1</sup> Petition Paragraph 3, page 2.  
COMMISSION STAFF’S RESPONSE TO GOLDFINCH’S  
PETITION FOR A DECLARATORY ORDER - 2

resource’ means: ... (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; ...”

- 8 To meet this need for certainty, Goldfinch makes the following requests:
- 9 That the Commission find that its purchases of small portions of the Grays Harbor Facilities’ total renewable biodiesel output, or from similarly situated renewable biodiesel producing facilities, are purchases of a “biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests,” in accordance with CETA’s requirements for qualifying as a “renewable resource.”<sup>2</sup>
- 10 That crops grown on North American land that are used in the production of renewable biodiesel, like that produced at the Grays Harbor Facility, have not been forested in modern times and, therefore, such crops qualify under RCW 19.405.020(33)(h)<sup>3</sup>, and
- 11 The fraction of renewable biodiesel Goldfinch purchases from the Grays Harbor Facility, or similarly situated biodiesel producing facilities, is from the portion of renewable biodiesel derived from crops grown on those portions of the North American land that have not been forested in modern times, thereby qualifying as “renewable resources” for purposes of RCW 19.405.040(1), particularly including RCW 19.405.040(1)(a) and RCW 19.405.040(1)(b).

### **DISCUSSION**

- 12 Staff reviewed Goldfinch’s petition, consulted with the Department of Commerce, and met with the company to discuss the petition.

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<sup>2</sup> Petition Paragraph 16, page 6

<sup>3</sup> Petition Paragraph 17(i) page 7

- 13 Staff has reviewed Goldfinch’s request for a date certain for qualifying biodiesel as a “Renewable Resource” under CETA. Staff agrees with the rationale supporting this request. A date certain would provide a concrete and clear criteria for qualifying crop lands. Setting the date certain would allow lands already in cultivation and not associated with ongoing harms to old growth to be used to grow inputs to produce biodiesel while also protecting now-existing old growth from harm. Staff believes that this interpretation is in keeping with the intent of CETA. Staff believes that the requirements of RCW 19.405.020(33)(h) were intended to ensure that including biodiesel fuel as a renewable resource did not create an incentive to clear old growth or first growth forest. The date certain requested by Goldfinch is consistent with that reading, although the Commission need not set any specific date in order to find that the biodiesel in question is CETA compliant.
- 14 Staff has reviewed Goldfinch’s request for a finding that its biodiesel purchases from the Grays Harbor facility are from the portion of renewable biodiesel derived from land that has not been forested in modern times, thereby qualifying as “renewable resources” for the purposes of CETA. Staff consulted with Commerce Staff and agrees that the risk to old growth forests from Grays Harbor facility’s supply chains are likely near-zero. Staff has no affirmative evidence to believe that any of the crops used to produce biodiesel at the Grays Harbor facility are grown on lands cleared, in recent history, from old growth forest. Since Goldfinch is only purchasing a portion of the output from the facility, Staff believes it is reasonable to conclude that at least a corresponding proportion of the biodiesel produced at the Grays Harbor Facility is compliant with CETA.

15 Staff does have some reservations that would require the Commission to keep a close eye on further developments with biodiesel fuels and stresses that this order should be considered non-precedential, and that further biodiesel fuel use should be considered on a case-by-case basis.

16 While Staff is comfortable with the instant petition, Staff highlights the importance of continued and case-by-case review of biodiesel fuels for CETA compliance.

### CONCLUSION

17 For the reasons stated above and in Goldfinch's filing, Commission Staff recommends the Commission issue an order declaring a date certain for which crops lands that were previously old growth are acceptable as feedstock for CETA-compliant biodiesel. The Commission's order should further declare that the fraction of renewable biodiesel Goldfinch purchases from the Grays Harbor Facility is from the portion of renewable biodiesel derived from crops grown on those portions of the North American land that have not been forested in modern times, thereby qualifying as "renewable resources" for purposes of RCW 19.405.040(1), particularly including RCW 19.405.040(1)(a) and RCW 19.405.040(1)(b)

DATED this 18<sup>th</sup> day of October 2024.

Respectfully submitted,

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NASH CALLAGHAN

UE-240653 OM  
Staff Response filed in docket on 10/18/2024

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