

**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-24_____

PETITION FOR
DECLARATORY ORDER

I. INTRODUCTION

1. In accordance with RCW 34.05.240, WAC 480-07-370, and WAC 480-07-930, Goldfinch Energy Storage LLC (“Goldfinch”) hereby petitions (the “Petition”) the Washington Utilities and Transportation Commission (“Commission” or “WUTC”) for an order declaring that: (i) the biodiesel Goldfinch intends to purchase from Renewable Energy Group, Inc. (d.b.a., Chevron Renewable Energy Group) (“REG”) Grays Harbor biodiesel production facility (“Grays Harbor Facility”), or similarly situated renewable biodiesel producing facilities, qualifies as a “renewable resource” under RCW 19.405.020(33)(h); and (ii) use of this renewable biodiesel in electric power generation satisfies the RCW 19.405.040(1) greenhouse gas neutrality requirements, including specifically under both the requirements of RCW 19.405.040(1)(a) and RCW 19.405.040(1)(b). Specifically, Goldfinch requests the Commission determine that the fraction of renewable biodiesel produced from the Grays Harbor Facility, or other renewable biodiesel facilities with similar feedstock, for use in the production of electricity, is derived from

crops not “raised on land cleared from old growth or first growth forests,” as required by Washington’s Clean Energy Transformation Act (“CETA”).¹

2. 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. Goldfinch’s development of these generation facilities is contingent on securing a source of renewable biofuel to produce electricity that is qualified to meet utilities’ obligations under CETA. Specifically, Goldfinch intends to procure biodiesel that qualifies as a “renewable resource” under CETA from the Grays Harbor Facility to fuel the generation facilities.

3. Potential offtakers from the Goldfinch facility have raised questions about whether biodiesel from the Grays Harbor Facility, or from similarly situated biodiesel producing facilities, qualifies as a “renewable resource” under RCW 19.405.020(33)(h). In order to provide potential offtakers with certainty that Goldfinch’s facilities will qualify as “renewable resources” under CETA, Goldfinch is submitting this Petition. In doing so, Goldfinch asks the Commission to resolve the ambiguity that currently exists under CETA with respect to qualification of renewable biodiesel facilities as a “renewable resource.”

4. The Commission has the authority to determine whether the resources used to produce electricity are qualified to meet utility obligations under CETA.² The Commission should issue a declaratory order to provide Goldfinch with necessary certainty that these planned

¹ RCW 19.405.020(33)(h).

² RCW 19.405.090(9) (“For an investor-owned utility, the commission must determine compliance with the requirements of this chapter.”). *See also* WAC 480-07-930 (stating “any interested person may petition the [C]ommission for a declaratory order”); RCW 34.05.240(1) (setting forth the requirements for obtaining a declaratory order).

generation facilities will comply with Washington’s resource sufficiency and CETA requirements.

5. Goldfinch’s full name and mailing address is:

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c/o: Copenhagen Infrastructure Partners
Attn: Brian Wright
412 W 15th St., 15th Floor
New York, NY 10011
bwr@cisc.dk
(646) 864-4951 (mobile)

Goldfinch’s representatives in this proceeding are:

Chris Zentz
Steptoe LLP
1330 NW Connecticut Ave
Washington, D.C. 20036
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(206) 307-5514 (mobile)

6. The following statutes and rules are at issue in this request for a declaratory order:

RCW 34.05.240, WAC 480-07-370, WAC 480-07-930, RCW 19.405.020(33)(h), and RCW 19.405.040(1).

II. BACKGROUND AND STATEMENT OF FACTS

A. CETA Requirements

7. CETA, applicable to all electric utilities serving retail customers in Washington, sets specific renewable resource milestones that electric utilities must meet. For example, pursuant to CETA, “all retail sales of electricity to Washington . . . customers [must] be greenhouse gas neutral by January 1, 2030.”³ To achieve compliance an electric utility must:

- (i) Pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail electric load, using the methodology established in RCW 19.285.040, if applicable; and
- (ii) use electricity from

³ RCW 19.405.040(1).

renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period.⁴

8. CETA defines a “renewable resource” as: “(a) [w]ater; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; **(h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests**; or (i) biomass energy.”⁵

B. Goldfinch’s Development Activities in Washington

9. Goldfinch is developing three generation facilities in Washington for the exclusive purpose of producing electricity from renewable biofuel resources compliant with CETA.

10. Consistent with CETA, Goldfinch intends to procure renewable biodiesel to produce electricity for peaking power needs to support regional power system resource adequacy and, in some cases, to improve local transmission system reliability.⁶ The Goldfinch facilities are designed and being proposed to use renewable biodiesel with an expected annual fuel consumption of approximately one (1) million gallons per year (“MMGY”) of biodiesel. The facilities intend to procure this renewable biodiesel from the Grays Harbor Facility.⁷

11. Goldfinch’s development of the generation facilities hinges on obtaining a CETA-compliant source of renewable biodiesel to fuel the production of electricity that would assist

⁴ RCW 19.405.040(1)(a) (emphasis added).

⁵ RCW 19.405.020(33)(h) (emphasis added).

⁶ As specified by the American Society for testing materials (“ASTM”) one hundred percent biodiesel (“B100”) must be comprised of “mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats” and meet the requirements of ASTM D6751. ASTM Int’l, *Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels*, <https://www.astm.org/d6751-20a.html> (Mar. 22, 2023). Biodiesel is commonly made from Soybean, canola, and other vegetable oils; used cooking oils; animal fats. Clean Fuels Alliance America, *Clean Fuels 101*, <https://cleanfuels.org/clean-fuels-101/> (last visited Aug. 15, 2024).

⁷ For reference, the Grays Harbor Facility produces roughly 100 MMGY of biodiesel annually.

utilities in meeting their obligations under CETA. To be clear, the economic viability of the project is dependent on securing an economic source of renewable biodiesel that is determined to qualify as a “renewable resource” under CETA. Without a source of CETA-qualified renewable biodiesel, or similar renewable resource fuel, Goldfinch expects the plant to be undesirable to Washington utilities. As a result, Goldfinch will not choose to continue to develop the facilities without known sources of CETA-qualifying renewable biodiesel.

C. Renewable Biodiesel from the Grays Harbor Facility

12. At this time, renewable biodiesel from the Grays Harbor Facility is the only economic, renewable biodiesel source in Washington for fueling the types of facilities Goldfinch is developing, or planning to develop. Awaiting the development of other CETA-qualifying renewable biodiesel fuel sources, particularly at an economic price point and with transportation access, would result in the mothballing of the development of Goldfinch’s Washington projects—at a time where the Northwest region is critically low resource adequacy.

13. The Grays Harbor Facility relies on oil from soy and canola grown in North America, along with smaller volumes of used cooking oil, for producing renewable biodiesel through a transesterification process.⁸ The Grays Harbor Facility purchases their soy and canola oil feedstocks from regional millers who procure soybeans and canola seeds from thousands of farmers. These regional millers then produce and blend vegetable oils from these seeds, which oils are then used by the Grays Harbor Facility to produce renewable biodiesel. There are many similarly situated renewable biodiesel producing facilities in North America that rely on the same blended sources of North American soy and canola oil as their primary feedstocks.

⁸ See PennState, 8.2 *The Reaction of Biodiesel: Transesterification*, <https://www.e-education.psu.edu/egce439/node/684> (last visited Aug. 15, 2024) (detailing the chemical process).

14. The finished oils that is produced by regional millers and used at the Grays Harbor Facility to produce renewable biodiesel are transported, typically by rail, to the Grays Harbor Facility. Given the number of farms that produce seeds used by the regional millers and method of transporting the finished oils to the Grays Harbor Facility, it is not commercially feasible to track the source of every farm that was used to supply the crop feedstock to Grays Harbor Facility, or other renewable biodiesel producers, and there is no commercially available, physically-separate stream of feedstock from specific farmlands to purchase. Nevertheless, as discussed below, the vast majority of the feedstock for the Grays Harbor Facility is sourced from crops grown on land that has not had old growth or first growth forests in modern times.

III. PETITION

15. Goldfinch requests the Commission issue a declaratory order holding that Goldfinch's purchases of renewable biodiesel from the Grays Harbor Facility, or similarly situated renewable biodiesel producing facilities, qualifies as a "renewable resource" under RCW 19.405.020(33)(h) for use in electric power generation to produce electricity from "renewable resources" to meet the requirements of CETA.⁹

16. Specifically, Goldfinch requests 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."¹⁰

⁹ RCW 19.405.040(1) requires that "all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030."

¹⁰ RCW 19.405.020(33)(h).

17. In requesting the Commission reach the determination set forth in paragraph 16 above, Goldfinch seeks two, specific determinations in this petition:

- (i) 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), and
- (ii) The small 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).

18. Goldfinch requests the Commission makes its determination based on the facts presented in this petition and Goldfinch’s commitment to adhere to its representations in this petition in its future biodiesel fuel procurement.¹¹ The Commission has previously made interpretations of law in declaratory orders based on facts as presented by a petitioner, under the condition that the Commission retains its ongoing authority to revisit its determinations at future dates should the factual circumstances change.¹² Goldfinch is not requesting the Commission surrender its ongoing authority to determine the status of the power from each facility, should the underlying facts presented in this petition change in the future. Goldfinch agrees the Commission

¹¹ The commission has relied on facts presented in a petition with the understanding that in doing so it is not surrendering its authority to regulate if a different fact pattern should be present in the future. *In re Petition of TECWA Power, Inc. for a Declaratory Order*, Declaratory Order, Docket No. UE-991993, paras. 6, 15 (Mar. 16, 2000). For an example of determinations of fuel source qualifications based, in part, on a petitioner’s representation of the fuel source, see Washington State Commerce Department advisory opinion (Jan. 22, 2013), [2012-003-Stoltze-Lumber-Advisory-Opinion-and-WREGIS-Certification.pdf](#).

¹² *In re Petition of Pub. Util. Dist. No. 1 of Chelan Cnty., Wash., for a Declaratory Order Regarding Application of WAC 480-109-200*, Order 01, Declaratory Order, Docket No. UE-170840, para. 15 (Sept. 15, 2017).

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).

19. As detailed below, Goldfinch’s request for a declaratory order on the qualification of biodiesel as a “renewable resource” pursuant to RCW 19.405.020(33)(h) meets the test for a declaratory order under RCW 34.05.240(1)(a-e). Goldfinch will be harmed without a determination at this time.

IV. ARGUMENT

A. CETA Explicitly Intended for Biodiesel to Qualify as a “Renewable Resource.”

20. CETA clearly defines biodiesel as a renewable resource. However, CETA has not defined what qualifies as biodiesel that “is not derived from crops raised on land cleared from old growth or first growth forests.”¹³ CETA does not provide an explicit time limit on how far back in ecological history the restriction on the use of cleared forests should apply. Nor does CETA specify compliance requirements. Instead, CETA identifies the Commission as the regulatory body with authority to adopt rules for investor-owned utilities “to simplify compliance.”¹⁴

21. Goldfinch interprets CETA’s reliance on the Commission “to simplify compliance” as a means for ensuring that compliance requirements are not too burdensome or unnecessary in the circumstances such that they defeat the purposes of CETA (i.e., to transition to 100% clean energy). As proposed herein, Goldfinch is seeking an interpretation of CETA’s definition of “renewable resource,” specifically with respect to “biodiesel,” that meets the

¹³ RCW 19.405.020(33)(h).

¹⁴ RCW 19.405.100(1)-(2).

definitions' restrictive clause on the use of land without unduly burdening CETA's express provision allowing for the use of biodiesel as a "renewable resource." A reasonable balance must be struck to give meaning to CETA's recognition of biodiesel as a "renewable resource" and to reasonably assure biodiesel is not derived from crops raised on land cleared from old growth or first growth forests for that purpose.

B. The Commission Should Effectuate CETA's Intent by Adopting a Date Certain for Qualifying Biodiesel as a "Renewable Resource" Under CETA.

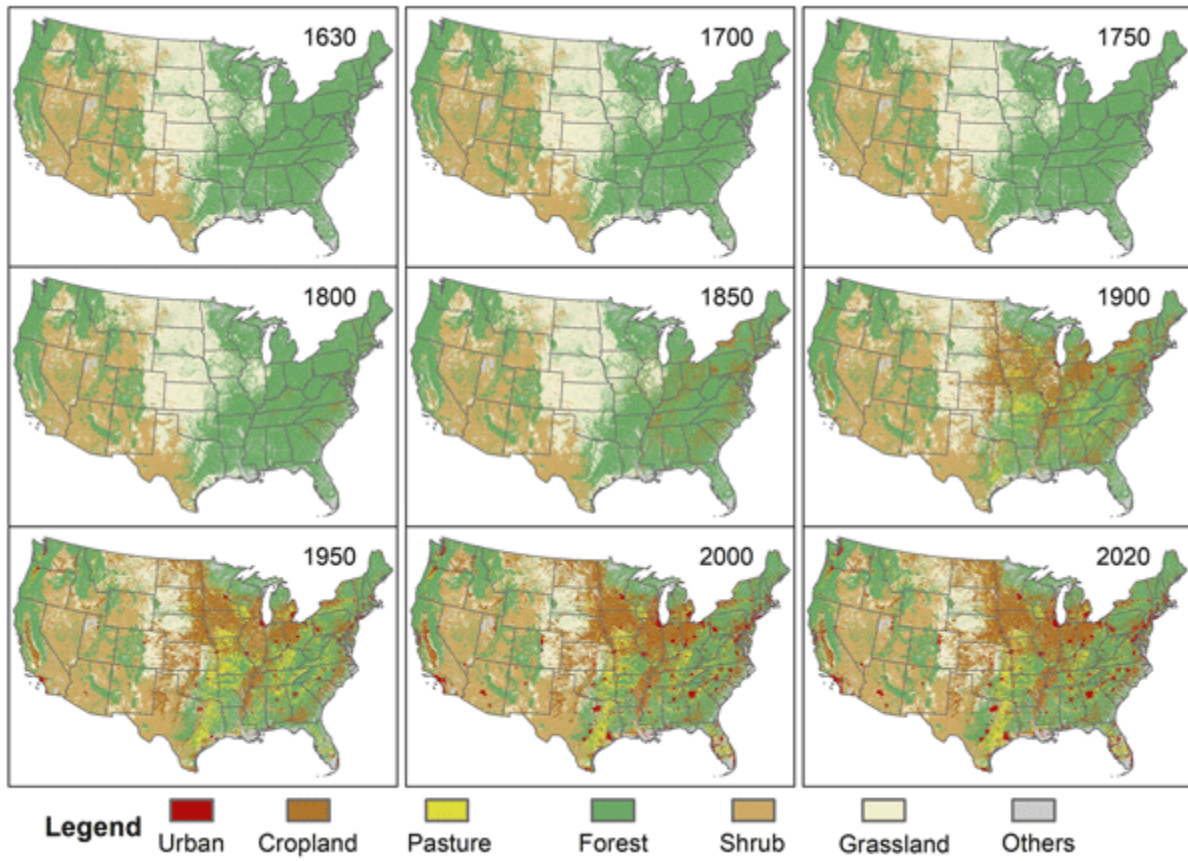
22. As discussed above, CETA clearly intended for biodiesel to qualify as a "renewable resource" under CETA. Unfortunately, however, the current CETA rules for biodiesel do not provide sufficient certainty to developers, utilities, and the market to determine what is required of biodiesel facilities in order to qualify as "renewable resources" under CETA. To resolve this uncertainty, Goldfinch suggests the Commission should adopt a date certain for determining whether biodiesel was produced from crops cleared from old growth or first growth forests. Adoption of a date certain would strike a reasonable balance between giving meaning to the inclusion of biodiesel as a "reasonable resource," while also ensuring biodiesel is not derived from old growth or first growth forests cleared for that purpose.¹⁵

23. Adoption of a date certain would resolve the existing ambiguity in CETA while also abiding by the clear intent of CETA. Specifically, a date certain effectuates the intent of CETA because vast portions of the land used today to raise soybean and canola in North America were either never forested or cleared of forests decades or centuries prior to the passage of CETA. Goldfinch suggests that a decision by the Commission to adopt a date-certain would be well-supported by information on how and where biodiesel is produced in the United States.

¹⁵ RCW 19.285.

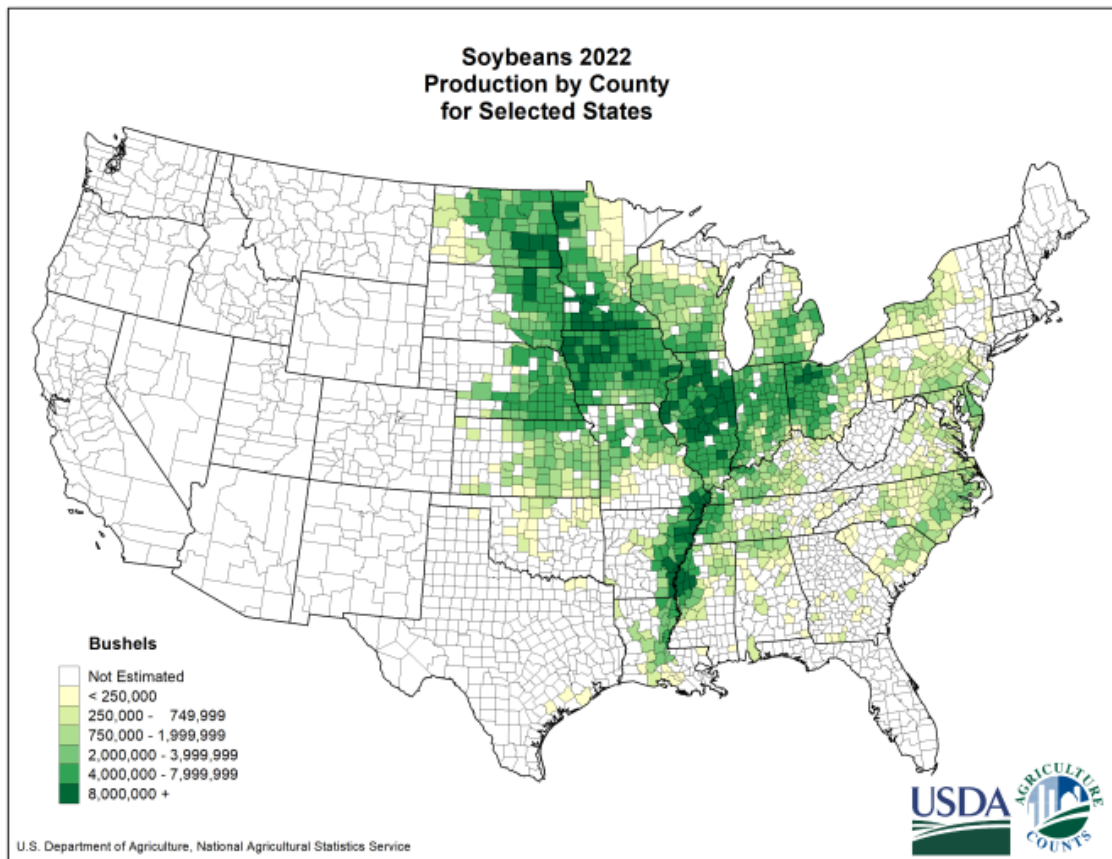
24. The lack of an overlap between old growth or first growth forested areas and areas used to produce biodiesel can easily be discerned by visually comparing the maps depicted below in Figure 1, to the maps in Figures 2 and 3 below. Figure 1 shows historical forest ranges in the United States from 1630 through 2020, whereas Figures 2 and 3 show heat maps of the production of soy bean and canola (rapeseed). Specifically, Figure 2 shows the production of soy bean in North America in 2022. Figure 3 shows the average canola production in North America between 2015 and 2019. More specifically, the map in the upper left-hand corner of Figure 1 shows the extent of naturally forested area in North America at approximately the time European extractive economic activity began taking place in the eastern seaboard of North America in 1630. At that time, virtually no European extractive economic activity had reached the Midwest, plains states, or central Canada—the locations where the vast majority of soybean and canola are grown today. By 1950, less than a decade after the chemical process of transesterification for the production of biodiesel was patented in the United States by Colgate, the vast majority of land raising soy and canola today (as shown in Figures 2 and 3) had long been cleared of forest.

Figure 1.¹⁶



¹⁶ Xiaoyong Li, Hanqin Tian, Choqun Lu & Shufen Pan, Four-century history of land transformation by humans in the United States (1630-2020): annual and 1 km grid data for the History of Land changes (Hisland-US), <https://essd.copernicus.org/articles/15/1005/2023/>, 15 ESSD 1005-35 (2023).

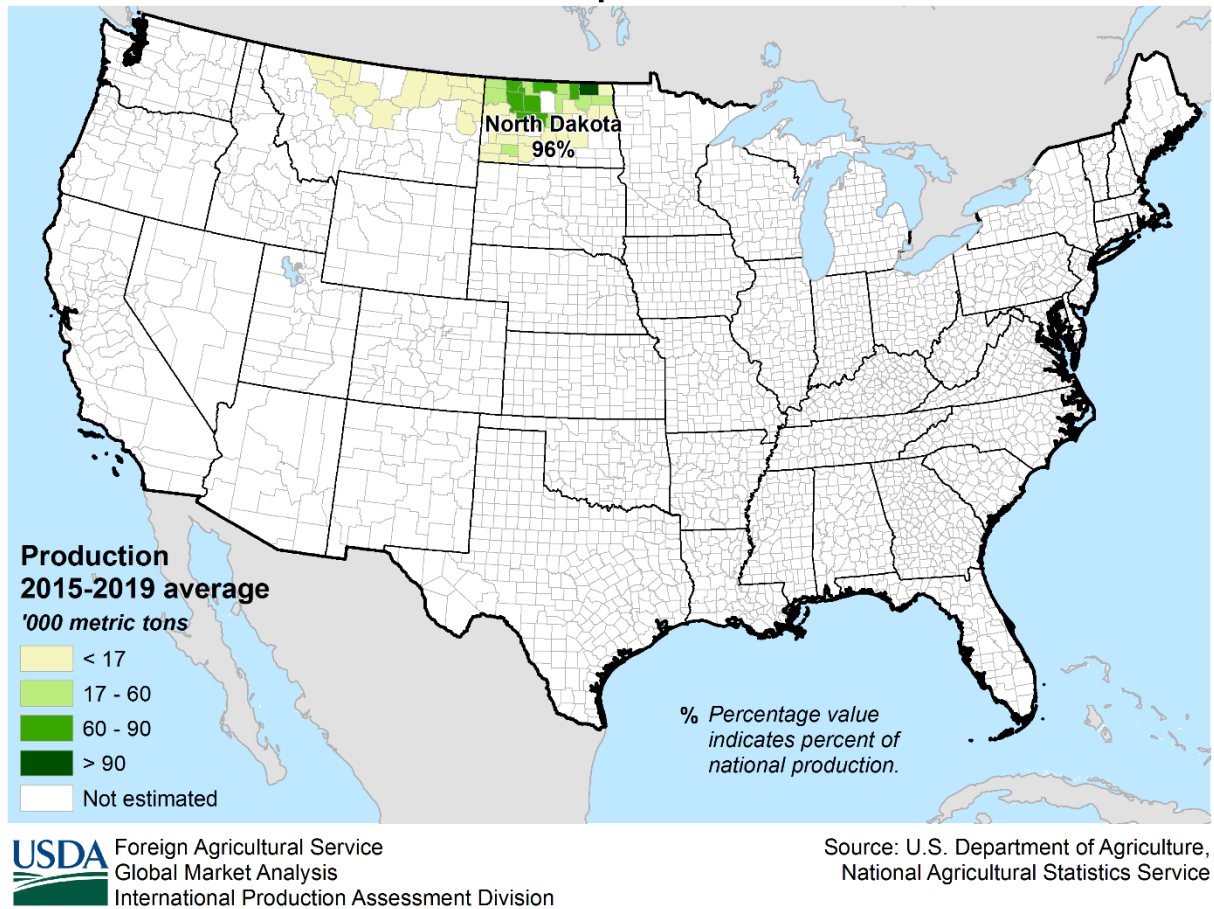
Figure 2¹⁷



¹⁷ USDA, *Charts and Maps*, https://www.nass.usda.gov/Charts_and_Maps/Crops_County/sb-pr.php (last visited Aug. 15, 2024).

Figure 3¹⁸

United States: Rapeseed Production



25. Taken together, the maps and information presented above support the conclusion that biodiesel production in the United States is predominantly from areas that have not been forest land since at least 1630, if not longer. On that basis, Goldfinch suggests that adopting a date certain for the determination of whether crops used to produce biodiesel were cleared of old growth or first growth forests strikes an appropriate balance between CETA’s intent, its

¹⁸ USDA, *United States: Rapeseed Production*, https://ipad.fas.usda.gov/rssiws/al/crop_production_maps/US/USA_Canola.png (last visited Aug. 15, 2024).

recognition of biodiesel as a “renewable resource,” and CETA’s desire to protect old growth and first growth forests.

C. Goldfinch Requests the Commission to Interpret the CETA Definition for “Biodiesel” by Adopting a 2010 “Date Certain” for Qualification as a “Renewable Resource” under CETA.

26. Through this Petition, Goldfinch requests that the Commission interpret 19.405.020.33(h) to allow for biodiesel fuel derived from crops raised on land cleared after a certain date to qualify as a “renewable resource” under CETA.¹⁹ Such an interpretation would strike a reasonable balance to give meaning to CETA’s recognition of biodiesel as a “renewable resource” and to reasonably assure biodiesel is not derived from crops raised on land cleared from old growth or first growth forests for that purpose.

27. Specifically, Goldfinch proposes that a reasonable interpretation of the restriction in RCW 19.405.020.33(h) is to allow biodiesel produced from soybean and canola grown on land that was farmland as of a date certain to qualify as a “renewable resource” under CETA. While Goldfinch is open to other interpretations by the Commission, Goldfinch proposes that December 31, 2010 be used as such date certain, given that, as of 2010, there is evidence that feed stock for biodiesel production in the United States was not being farmed from areas where old growth or first growth forests existed. Figure 4 shows forested areas of North American as of 2010, eight years prior to the passage of CETA, for the comparison to areas where feedstock is grown, as shown in the heat maps in Figures 2 and 3 above. If the purpose of the restriction in RCW 19.405.020.33(h) is to limit the clearing of forests for the production of biodiesel feedstock, allowing the use of land not forested as of 2010 clearly meets this criterion.

¹⁹ RCW 19.285.030(21)(h) (“Renewable resource means: . . . biodiesel fuel that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006”).

Furthermore, Goldfinch is not aware of any evidence that indicates forested lands are being cleared now, or in the last several decades, to grow soybean or canola in North America.

Figure 4:
North American forest, 2010



28. A further limiting factor for the scope of Goldfinch’s request contained in this Petition is the fact that, in addition to clearly showing that the vast majority of soybean and

canola has been grown on non-forested lands for at least the previous century, Goldfinch’s request in this Petition only relates to that small portion of renewable biodiesel it purchases from the Grays Harbor Facility, or similarly situated renewable biodiesel production facilities, which Goldfinch is seeking be declared as qualifying under RCW 19.405.020.33(h). As detailed above, the portions of renewable biodiesel purchased from any one facility is a small fraction of that facility’s total production, and the vast majority of the feedstock for those facilities are from lands that have never been forested, or have not been forested in modern agricultural times, thereby making it even more likely that the renewable biodiesel being used to power the Goldfinch facilities in Washington qualifies as a “renewable resource” under CETA.

D. Washington Has Already Approved the Grays Harbor Facility Under Other Programs with a Similarly-Restrictive Land Use Component, so Reaching a Different Conclusion Here would be Incongruous with Those Prior Findings.

29. In addition to all the reasons set forth above for why the Commission should issue the interpretation sought in this Petition, Goldfinch also notes that the State of Washington has already approved two fuel pathways for the Grays Harbor Facility under Washington’s Low Carbon Fuel Standard (“LCFS”), which program includes similar land use considerations. The biofuel industry has matured substantially over the past two decades, and Washington, California, and Oregon have carefully crafted Carbon Fuel Standard (“CFS”)/LCFS programs that consider factors such as Indirect Land Use Change (“ILUC”) into fuel qualification standards. The Washington CFS creates clear ILUC guidance for biofuels made from sugarcane, corn, sorghum, soybean, canola, and palm feedstocks.²⁰ All three programs use the GREET (Greenhouse gases, Regulated Emissions, and Energy use in Technologies) model for measuring carbon intensity and the granting of pathways. The GREET model considers, in detail, the

²⁰ WAC 173-424-900.

lifecycle analysis of a renewable fuel, from the feedstock the fuel is derived from (which accounts for the land usage) all the way to the burning of the fuel for energy in an engine (in a specific market). Each pathway must be validated by the governing jurisdiction, is subject to audit, and must be regularly renewed as each pathway granted comes with an expiration date. As noted above, the Grays Harbor Facility has (and is) complying with all standards and audits under these fuel pathways certificates.

30. Given that the State of Washington has already approved the Grays Harbor Facility as meeting requisite land use restrictions on feedstock production for similar purposes, Goldfinch suggests the Commission should reach a similar conclusion with respect to this Petition. Given CETA's similar land use restrictions and effort to avoid clearing of old growth and first growth forests for the production of biodiesel, Goldfinch requests the Commission reach a similar conclusion in this proceeding and find that the renewable biodiesel produced at the Grays Harbor Facility, or similarly situated renewable biodiesel facilities, meets the definition of a "renewable resource" under CETA.

V. NECESSITY OF THE DECLARATORY ORDER

31. The Commission can enter a declaratory order in this proceeding. Pursuant to WAC 480-07-930 and RCW 34.05.240(1) the Commission may enter a declaratory order upon a showing that five criteria are met.²¹ As demonstrated below, this petition meets all five of these criteria.

²¹ RCW 34.05.240(1) requires that a petitioner requesting a declaratory order demonstrate:

(a) [t]hat uncertainty necessitating resolution exists; (b) [t]hat there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion; (c) [t]hat the uncertainty adversely affects the petitioner; (d) [t]hat the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested; and (e) [t]hat the petition complies with any additional requirements established by the agency under subsection (2) of this section.

A. Goldfinch Faces Uncertainty That Necessitates Resolution

32. Without the clarity sought in this Petition, the Goldfinch facilities are at risk of being mothballed due to lack of interest from utility offtakers, which have expressed concerns over whether these facilities would qualify as a “renewable resource” under CETA. In order to successfully develop these projects, Goldfinch needs confirmation from the Commission that the fuel sought to be used at these facilities would qualify as a “renewable resource” under CETA. The specific ambiguity in the CETA definition of a “renewable resource” is how to interpret the phrase “from crops raised on land cleared from old growth or first growth forests,” as applied to crop feedstock used at renewable biodiesel production facilities, including the Grays Harbor Facility.²² The Commission and the Washington State Department of Commerce have not developed rules explaining the meaning of this phrase or ruled on its interpretation. This uncertainty necessitates resolution by the Commission so that Goldfinch can determine whether to make additional investments in the development of its three proposed thermal renewable generation facilities in Washington State.

B. An Actual Controversy Exists

33. There is an actual controversy because Goldfinch will not move forward with the development of its three proposed thermal renewable generation facilities if it cannot secure renewable resources to fuel them. Goldfinch seeks to engage in a contract with a Washington investor-owned electric utility (“IOU”) for the development of its facilities for the production of electricity from “renewable resources” with renewable biodiesel from the Grays Harbor Facility,

Id. at (a)-(e).

The Commission has not established additional requirements under RCW 34.05.240(1)(e), but rather requires that petitions for declaratory order comply with the remaining four subsections of RCW 34.05.240(1). *See* RCW 34.05.240(2).

²² RCW 19.405.020.33(h).

or other similarly situated renewable biodiesel production facilities. At current, the electric industry does not share a common understanding of the phrase “from crops raised on land cleared from old growth or first growth forests,” as applied to the renewable biodiesel from the Grays Harbor Facility or other facilities. In discussions with potential IOU offtakers, the IOUs have expressed concerns about the lack of clarity around this phrase, and as a result, whether the Goldfinch facilities would qualify as a “renewable resource” under CETA.

34. Goldfinch will only proceed with developing these facilities if it can secure a renewable resource to fuel them. Without these facilities qualifying as “renewable resources” under CETA, these facilities will not be attractive to Washington IOUs. Washington IOUs face a resource sufficiency need that could threaten the reliability of electric service in the Puget Sound area and are also required by CETA to find peaking resources that qualify as renewable. Thus, without the interpretation sought from the Commission in this Petition, what crops qualify for use in making renewable biodiesel will remain uncertain under CETA, thereby perpetuating the current controversy over whether the fuel sources for these, and other generation facilities, can fulfill the region’s reliability needs while being compliant with CETA.

35. Thus, a Commission order will not be a mere advisory opinion because Goldfinch intends to enter into a contract with a Washington IOU only if the Commission declares that renewable biodiesel from the Grays Harbor Facility, or other similarly situated renewable biodiesel production facilities, are a “renewable resource” under the CTEA.

C. The Uncertainty Adversely Affects Goldfinch.

36. Goldfinch is adversely affected by the existing uncertainty about the limitations on biodiesel as a “renewable resource” under CETA because, in conversations with various market participants (including potentially interested offtakers), various parties have expressed

concerns about whether these facilities would qualify as a “renewable resource” under CETA. As long as the uncertainty around CETA’s definition of biodiesel as a “renewable resource” remains, IOUs potentially interested in Goldfinch’s facilities are subject to additional risk from the prospective of their CETA compliance requirements. Given that IOUs’ are typically risk-averse, this uncertainty is likely to make them uninterested in the Goldfinch projects. Thus, the ongoing uncertainty around the biodiesel requirements delays the development of the facilities, economically harms Goldfinch’s interest, and inhibits Goldfinch’s business model to provide solutions to the region’s resource adequacy needs using renewable biodiesel to produce CETA-compliant, renewable energy.²³

D. A Declaratory Order Will Not Result in Adverse Effects.

37. There will be no adverse effects on others, or the general public, from a Commission order declaring that Goldfinch’s purchases of renewable biodiesel from the Grays Harbor Facility, or similarly situated renewable biodiesel producing facilities, qualifies as a “renewable resource” under RCW 19.405.020(33)(h) for use in electric power generation to produce electricity from renewable resources to meet the requirements of CETA. Any competitor using renewable biodiesel will have the same opportunity to buy the types of renewable biodiesel described in this Petition from the same renewable biodiesel producers as Goldfinch. Rather than result in adverse effects on others, certainty from the Commission will benefit all market participants and customers by providing clarity on all entities’ opportunities to procure competitive, renewable biodiesel in the region. Moreover, resolving the uncertainty will serve to increase *competition* for producing this valuable, renewable biodiesel product (i.e., an increase in

²³ *In re City of Spokane for an Order Declaratory that the City of Spokane Waste to Energy Facility is not “baseload electric generation” under RCW 80.80.010(4) and WAC 480-100-405(2)(a)*, Docket UE-210247, Order 01, Declaratory Order, paras. 21-22 (July 23, 2021).

suppliers, thereby resulting in competition for customers and resulting in reduced costs to the general public and Washington ratepayers.

E. This Petition Complies with WAC 480-07-930.

38. This Petition complies with the Commission’s rules for petitions for declaratory orders at WAC 480-07-930.

VI. CONCLUSION

39. For the foregoing reasons, Goldfinch respectfully requests the Commission issue a declaratory order finding that: (i) Goldfinch’s purchases of renewable biodiesel from the Grays Harbor Facility, or similarly situated renewable biodiesel producing facilities, qualify as a “renewable resource” under RCW 19.405.020(33)(h); and (ii) that Goldfinch’s use of this renewable biodiesel in electric power generation will satisfy CETA’s requirements for producing electricity from greenhouse-gas-neutral sources found at RCW 19.405.040(1), particularly including RCW 19.405.040(1)(a) and RCW 19.405.040(1)(b). Goldfinch will monitor the feedstock sources of the renewable biodiesel fuel that it intends to use to generate power in its facilities for any changes that disturb the facts presented in this petition. As explained herein, the declaratory order sought via this Petition is necessary to give intent to CETA’s inclusion of biodiesel in the definition of “renewable resources.” By interpreting CETA as Goldfinch has proposed in this Petition, the Commission will also provide Goldfinch, IOUs, and market participants with certainty on which types of biodiesel qualify as CETA-compliant “renewable sources,” likely resulting in increased development of renewable biodiesel facilities in the region, which are necessary to ensure Washington’s energy supply remains reliable and affordable.

Respectfully Submitted,

/s/ Sean Toland

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