

# FINANCING BIOFUEL REFINING AND RECYCLING FACILITIES

The development of biofuel and recycling facilities around the country has surged in recent years in response to legal mandates to reduce the vast amounts of organic, medical, and plastic waste heading to our landfills. Federal and state tax incentives are available for the production of renewable natural gas to reduce our reliance on fossil fuels and cut greenhouse gases.

Our nationally recognized finance and infrastructure lawyers have extensive experience in the development of commercial-scale facilities to convert waste streams into marketable products and reduce landfill volumes. Our clients are engaged in groundbreaking work to transform biosolids (wood, sludge, and plant crops), food waste, plastics, farming wastes, and industrial wastes such as tallow into products ranging from biofuels (renewable gas, diesel, and jet fuels), fertilizers, and filtering media to plastic pellets and animal feedstocks.

Our lawyers can facilitate the execution of complex capital markets strategies, including initial and secondary public offerings, Rule 144A offerings, shelf offerings, high-yield debt offerings, and private placements. We also are experienced in specialized finance structures, including hedges, and the full range of intercreditor issues arising from competing lender interests.

Our real estate lawyers provide critical support in relevant areas of project development, leasing and access rights, engineering and construction contracting, land use, and secured lending structures. Our environmental attorneys support the finance teams to help clients conquer challenges in site condition assessments, environmental permitting, brownfield redevelopment, and project operations. We also provide often critical experience in labor, procurement, public-private partnerships, and litigation.

Ballard Spahr's Bioenergy and Biomanufacturing Industry Team is backed by the resources of our nationally recognized Finance Department.

## REPRESENTATIVE EXPERIENCE

Our team has participated in more than \$18 billion in solid waste and pollution control financings over the last two decades. 33 of those financings have involved exempt facilities. Some recent examples include:

**Rialto Bioenergy Facility (California).** Ballard Spahr served as bond purchaser counsel in the financing for a project consisting of the acquisition, construction, and equipping of a solid waste treatment and disposal and recycling facility to include the processing of solid food waste and biosolids to produce fertilizer, renewable electricity, and renewable natural gas in Rialto, California.

**Red Rock Biofuels (Oregon).** Ballard Spahr participated in the financing of the development of a biofuels production facility in Oregon that converts woody biomass from timber harvest residuals and forest thinning activities into jet, diesel, and gasoline blendstock fuels.

**Fulcrum Sierra Biofuels (Nevada).** Ballard Spahr served as counsel to the underwriter in connection with the limited offering of multiple bond issues for Fulcrum Sierra Biofuels, LLC for the acquisition, construction, improvement, development, equipping, and furnishing of biorefinery facilities and related infrastructure improvements that will convert municipal solid waste to diesel fuel.

**Carbonlite (Pennsylvania).** Ballard Spahr served as bond counsel in connection with the successful closing of unrated, tax-exempt bonds to finance a portion of the costs to construct and develop a new post-consumer polyethylene terephthalate (PCR PET) recycling facility in Reading, Pennsylvania.

**Equilibrium Capital Group (Arizona).** Ballard Spahr served as counsel to the underwriters in connection with the limited offering of bonds for an affiliate of Equilibrium Capital Group. The bonds will be used to construct an anaerobic digestion facility and associated gas conditioning and interconnection facilities located at a large dairy in Arizona.

**RES Polyflow (Indiana).** Ballard Spahr worked on a 2019 project to finance the development of a plastics recovery and recycling facility that will convert mixed polymer waste into gasoline blendstock and wax in Indiana.

**Columbia Pulp (Washington).** Ballard Spahr served as counsel to the underwriter in connection with the limited offering of bonds used to finance the construction, equipping, and operation of an agricultural waste to pulp conversion plant in Washington State.

**KDC Agribusiness Fairless Hills (Pennsylvania).** Ballard Spahr served as bond counsel in connection with the financing, through the issuance of two series of taxable and tax-exempt municipal bonds, both featuring current delivery and forward delivery tranches, for a project consisting of the acquisition, construction, and equipping of a solid waste treatment and disposal and recycling facility which converts unsold food collected from supermarkets in the Philadelphia region to produce pet food and other animal feedstocks.

**Aries Linden LLC (New Jersey).** Ballard Spahr served as bond purchaser counsel in the financing by Aries Clean Energy of a project consisting of the leasehold acquisition, conversion, and equipping of an industrial building approximately 20 miles from New York City to house a facility designed to convert municipal biosolids into renewable energy in a closed loop system keeping biosolids out of area landfills and avoiding potentially harmful land application.

**Continuus Materials (Iowa).** Ballard Spahr serves as bond counsel for tax-exempt bonds for municipal solid waste disposal and recycling facility to process municipal solid waste into roofing and building materials.

**Emerald Biofuels (Texas).** Ballard Spahr has served, initially, as underwriter and special tax counsel and, later, as bond counsel on a series of financings through multiple issuers of tax-exempt bonds to finance a renewable diesel fuel production facility being developed by a refining company in Port Arthur, Texas. The facilities being developed by the company will be a biofuels production facility, which will convert approximately 1,070 tons per day (or 375,000 tons per year) of solid waste (predominantly waste fats, oils, greases and other agricultural oils) into approximately 6,500 barrels per day of renewable diesel fuel and other co-products.

**Red River (North Dakota).** Ballard Spahr served as bond counsel to the Red River BioRefinery, which is a waste-to-biofuels processing facility capable of producing up to 16.5 million gallons of fuel-grade ethanol per year from various biomass waste streams (including sugar beets, potato waste, and other starch-based food waste) whereby sugar beet tailings are converted to ethanol.

**Purecycle (Ohio).** Ballard Spahr served as counsel to the senior bond purchasers in connection with the limited offering of senior tax exempt and subordinate taxable and tax exempt facility bonds to finance a waste polypropylene recycling facility in Ironton, Ohio.

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