



**STATE OF CONNECTICUT
V.
AMERICAN GREENFUELS, LLC**

**CONSENT ORDER NO. COWRIN19001
DATE ISSUED: November 16, 2020**

- A. With the agreement of American GreenFuels, LLC ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a limited liability company registered to do business in Connecticut with the Connecticut Secretary of the State.
 2. Respondent, whose registered business address listed with the Connecticut Secretary of the State is 10 Middle Street - Penthouse, Bridgeport, CT 06604, has a facility located at 30 Waterfront Street, New Haven, Connecticut, Assessor's Map 066, Block 0951, Lot 00100 on the City of New Haven, Connecticut land records ("the site").
 3. Respondent or its predecessor in interest is or has been engaged in the operation of producing biodiesel at the site since 2012.
 4. On September 8, 2016, Respondent submitted a registration (Application No. 201607866) to the Commissioner for approval under the *General Permit for Miscellaneous Discharges of Sewer Compatible Wastewater* ("General Permit"). On October 20, 2016, the Commissioner issued Permit No. CTMIU0186 ("the permit") to the Respondent to approve the discharge of process and non-process wastewaters to the Greater New Haven Water Pollution Control Authority's ("GNHWPCA") sanitary sewer system for conveyance to GNHWPCA's East Shore Water Pollution Abatement Facility ("East Shore POTW"). The permit authorizes Respondent to discharge wastewater to the sanitary sewer system from four discharge serial numbers ("DSNs"): DSN 001-1, DSN 002-1, DSN 003-1 and DSN 004-1. DSN 004-1 represents the combined process and non-process discharge.
 5. On May 10, 2019, the GNHWPCA contacted the Department of Energy and Environmental Protection, Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division ("WPED") to report that Respondent was discharging wastewater to the sanitary sewer system containing high concentrations of Biochemical Oxygen Demand ("BOD") and total oils and grease having the potential to adversely affect the East Shore POTW's operation from at least November 30, 2018 through April 30, 2019. GNHWPCA also documented receipts of slug loads of non-petroleum based grease on or about October 3, 2017, January 25 and 30, 2018, April 30, 2019 at the headworks of the East Shore POTW.

6. WPED conducted inspections at the site on May 21, 2019, June 5, 2019 and June 18, 2019. WPED collected samples of DSN 004-1 on May 21, 2019 and June 18, 2019 at DSN 004-1 for analysis of barium, BOD, chromium, copper, lead, total oil and grease, pH, silver and total suspended solids. Based on these inspections and sampling events, WPED found the following:
 - a. Respondent failed to notify the WPED of effluent violations that are greater than twice the permitted level specified in Section 5 of the permit as required by Section 5(d)(2)(A) of the permit. From at least November 2018 through April 2019, Respondent collected daily samples of process water effluent for analysis of BOD and total oils and grease. The results of those samples, which were sent to GNHWPCA on a monthly basis from November 2018 through April 2019, exceeded the permitted limits listed in Section 5 of the permit multiple times for both BOD and total oil and grease and no notification of such exceedences was provided as required by Section 5(d)(2)(A) of the permit.
 - b. Respondent failed to submit a written report detailing the effluent violations cited in paragraph A.6.a above as required by Section 5(d)(2)(B) of the permit.
 - c. Respondent failed to prepare a report detailing the effluent violations cited in paragraph A.6.a above as required by Section 5(d)(3) of the permit.
 - d. Respondent failed to submit a report prepared by a Professional Engineer licensed to practice in Connecticut or a Certified Hazardous Materials Manager detailing the effluent violations cited in paragraph A.6.a above as required by Section 5(d)(4) of the permit.
 - e. Respondent failed to immediately notify the GNHWPCA and the WPED of any discharges that could cause problems to the POTW including, but not limited to, slug loadings of pollutants which may cause a violation of the GNHWPCA's NPDES Permit or which may inhibit or disrupt the POTW, its treatment process or operations, or its sludge processes, use or disposal as required by Section 5(d)(1)(A) and (B) of the permit. Respondent failed to notify the GNHWPCA of the violations cited in paragraph A.6.a above and of the slug loadings of oil and grease discharged to the East Shore POTW which occurred on or about October 3, 2017, January 25, and 30, 2018, April 30, 2019.
 - f. Respondent failed to notify WPED within 15 days after expanding or significantly altering its wastewater collection or treatment system or its method of operation as required by Section 5(e)(3)(B) of the permit. In 2018, Respondent installed alternate treatment for the combined discharge consisting of dissolved air flotation and an oil water separator without notifying DEEP after this modification was made.
 - g. Respondent failed to collect samples for discharges greater than 10,000 gallons per day from a single pipe, excluding non-contact cooling water, water treatment wastewater and hydrostatic pressure testing wastewater, as a grab sample.

Sample(s) collected for analysis of oil and grease cannot be composited and must be collected as a grab sample(s) as required by Section 5(b)(7)(B) of the permit. Respondent was found collecting composite samples for analysis of oil and grease.

- h. Respondent discharged wastewaters associated with a modified registration without the prior written approval of the Commissioner in the form of an Approval of Registration as required by Sections 4(e)(1)(B) and 5(e)(3)(A) of the permit. On September 13, 2017, Respondent submitted a modified registration to WPED indicating process and treatment system modifications planned for the facility. In the modified registration, Respondent requested approval for an increase in flow and a change to the on-site wastewater treatment system. The Respondent proceeded to make the changes without approval of the modified registration. From at least November 2018 through April 2019, AGF consistently discharged concentrations of BOD, total oil and grease, total suspended solids and daily flow at levels above those identified in Application No. 201607866 for the permit.
- i. Respondent discharged wastewater containing solid or viscous pollutants in amounts that caused obstruction of flow in the sanitary sewer system or receiving POTW in violation of Section 5(a)(2)(C) of the permit. The GNHWPCA reported receiving slug loadings of non-petroleum based grease on or about October 3, 2017, January 25 and 30, 2018, April 30, 2019.
- j. On May 21, 2019, the WPED determined through sampling that Respondent violated the following effluent limitations of Section 5(a)(1)(A) of the permit and exceeded 2% of the POTW's design loading for at a minimum, BOD:

<u>Parameter concentration</u>	<u>Analytical Result</u>	<u>Maximum Instantaneous (per Section 5(a)(1)(A))</u>
Zinc	3.0 mg/l	2.0 mg/l
BOD	>7,500 mg/l	600 mg/l
Total oil and grease	350 mg/l	100 mg/l
Total suspended solids	6,300 mg/l	600 mg/l

- 7. On July 11, 2019, WPED issued Notice of Violation No. WRIN19 031 ("NOV") to address the violations corresponding to those cited in paragraph A.6.a through A.6.j of this consent order.
- 8. On August 13, 2019, Respondent submitted a written response to the NOV and signed compliance statement.
- 9. In its August 13, 2019 NOV response, Respondent indicated that the violations were brought into compliance by: discontinuing the discharge of process wastewater to the GNHWPCA; collecting and shipping the process wastewater for off-site disposal; and submitting a modified registration identifying the change.

10. On September 19, 2019, WPED issued a letter to Respondent requesting clarification to information provided in the August 13, 2019 NOV response. On October 10, 2019, WPED received written documentation that sufficiently addressed the August 13, 2019 NOV response.
 11. By agreeing to this consent order, Respondent makes no admission of fact or law with respect to the matters herein, including the allegations set forth above, other than the facts asserted in paragraphs A.1 through A.4 and A.8, and Respondent shall not be deemed to have made any such admission because Respondent has agreed to perform work pursuant to this consent order.
 12. By virtue of the above, Respondent created or had maintained a facility or condition which reasonably can be expected to create a source of pollution to the waters of the State and has violated a permit issued under Section 22a-430b of the Connecticut General Statutes.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-424, 22a-425, 22a-430, 22a-430b, 22a-431, 22a-432, 22a-433, and 22a-438 of the Connecticut General Statutes, orders Respondent as follows:
1. Hire a Consultant. The Commissioner approves Respondent's retention of Tighe & Bond, Inc. to prepare the document(s) required by this consent order. Respondent shall retain such consultant(s) as approved by the Commissioner until compliance with this order has been achieved. Within ten (10) days after retaining any qualified consultant(s) other than Tighe & Bond, Inc., Respondent shall notify the Commissioner in writing of the identity of and receive written approval of such other qualified consultant(s) from the Commissioner. In order to seek approval of a qualified consultant(s), Respondent shall submit to the Commissioner a description of a qualified consultant(s)' education, experience and training which is relevant to the work required by this consent order. The consultant(s) retained to prepare the document(s) required by this consent order must be an independent, registered professional engineer in the State of Connecticut ("P.E."). Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 2. Compliance Assurance. Respondent's process wastewater handling shall comply with all applicable provisions of Connecticut's Water Discharge Regulations at Sections 22a-430-3 and 4 of the Regulations of Connecticut State Agencies ("RCSA"), including but not limited to those regulations and permit conditions identified in paragraph A.6 above, if applicable. In particular:
 - a. On or before thirty (30) days after the date of issuance of this consent order, Respondent shall prepare and submit for the Commissioner's review and written approval, a report detailing the analyses, operational changes and/or other actions it has undertaken or will undertake to ensure Respondent's handling of its process wastewater is in compliance with Connecticut's Water Discharge Regulations RCSA Sections 22a-430-3 and 4. At a minimum, such report shall specifically identify all necessary actions Respondent has taken to prevent future violations,

including but not limited to those violations cited in paragraph A.6 of this consent order, and local sewer discharge ordinances of GNHWPCA.

- b. Respondent shall, prior to discharging process wastewater to a municipal water pollution control facility ("POTW") in Connecticut, via over the road transport or piped, submit a new permit application or a registration modification (as applicable) for approval by the receiving POTW and the Commissioner.
3. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.
4. Civil penalty. On or before thirty (30) days after issuance of this consent order, Respondent shall pay a penalty of **thirty-three thousand five hundred dollars (\$33,500.00)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.6 of this consent order.
5. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection" The check shall state on its face, Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division, civil penalty, Consent Order No. COWRIN19001."
6. Supplemental Environmental Project. In addition to the civil penalty referenced in paragraph B.4 above, as a Supplemental Environmental Project ("SEP"), Respondent has agreed to make payment to GNHWPCA as follows:
 - a. On or before thirty (30) days after the date of issuance of this consent order, Respondent shall pay **fifty one thousand five hundred dollars (\$51,500.00)** to Greater New Haven Water Pollution Control Authority and shall certify in writing to the Commissioner that such payment of SEP funds was made. Respondent understands that Greater New Haven Water Pollution Control Authority will use the SEP funds to the complete a conceptual design for improving the existing Fats, Oil and Grease ("FOG") receiving and processing system at the East Shore Water Pollution Abatement Facility ("ESWPAF") located at 345 E. Shore Pkwy, New Haven, CT 06512 and the implementation of such conceptual design in accordance with the Memorandum of Understanding between the Department of Energy and Environmental Protection and Greater New Haven Water Pollution Control Authority as attached to this consent order (the "Memorandum of Understanding"). Once Respondent has made the full payment of the SEP funds to the GNHWPCA and certified this payment to the Commissioner, Respondent shall be in full

compliance with paragraph B.6 of this consent order. In no event shall Respondent have any responsibility for the use of the SEP funds by GNHWPCA or the Department under paragraph B.6.e below or for GNHWPCA's actions or inactions under the Memorandum of Understanding.

- b. If Respondent fails to fund the SEP in accordance with paragraph B.6.a. above, Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment for any unpaid SEP funds plus a penalty of either 10% of such amount or \$2,500.00, whichever is greater. Within fourteen (14) days after the date of the Commissioner's written request, Respondent shall pay such unpaid SEP funds plus the appropriate penalty by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection" and the check shall state on its face "Statewide SEP Account, Consent Order No. COWRIN19001." Respondent shall mail or personally deliver such payment to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.
 - c. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
 - d. Respondent shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
 - e. In the event that any SEP funds paid by the Respondent are not fully expended by GNHWPCA in accordance with the Memorandum of Understanding, the Department shall use the unexpended SEP funds for additional SEP(s) consistent with its "Policy on Supplemental Environmental Projects."
7. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner

deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

8. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
9. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
10. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
11. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
12. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
13. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the

business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.

14. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties,"] Nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
15. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
16. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance or prevent or abate pollution.
17. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
18. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.
19. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
20. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay,

and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

21. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Christopher Gerke, Environmental Analyst
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Water Permitting and Enforcement Division
79 Elm Street, 2nd FL
Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

American GreenFuels, LLC

BY:

Kevin Luddy . KEVIN LUDDY, EXECUTIVE VP & CFO,
KOLMAR AMERICAS, Inc.

Date

11/6/2020

Issued as a final order of the Commissioner of Energy and Environmental Protection.

Betsy Wingfield

Betsy Wingfield
Deputy Commissioner

November 16, 2020

Date

City of New Haven Land Records

Consent Order No. COWRIN19001

