



STATE OF CONNECTICUT

v.

Gulf Oil, Limited Partnership

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COWSMT 19-003

CONSENT ORDER

A. The Commissioner of Energy and Environmental Protection ("the Commissioner") finds:

1. Gulf Oil, Limited Partnership ("Respondent") is listed in the City of New Haven Land Records as the owner of property at 500 Waterfront Street in the City of New Haven, CT ("the Site").
2. Respondent is the owner of petroleum aboveground storage tank systems ("ASTs") located at the Site. Such property is further described in a deed which was recorded on July 30, 1996 at Volume 5024 on Page 186 in the City of New Haven Land Records, and as Map 081, Block 0954 and Lot 00200 in the City of New Haven Tax Assessor's Office.
3. Respondent operates a licensed marine terminal for the loading and unloading of oil and petroleum to and from marine vessels at the Site under Marine Terminal License No. MT031 issued May 21, 2018.
4. Marine Terminal License No. MT031 specifies that releases must be responded to in accordance with their Emergency Response Action Plan ("ERAP").
5. On October 22, 2019, during a transfer operation at the Site conducted by Respondent, approximately 2,700 gallons of gasoline was released onto the ground, adjacent to Long Island Sound.
6. Respondent failed to implement key provisions of their ERAP, including failure to immediately call 911, failure to implement the Plan as written and failure to establish a safety zone in violation of Marine Terminal License No. MT031.

7. On October 23, 2019, while conducting response and recovery actions, weathered petroleum unrelated to the release on October 22, 2019 was encountered in the subsurface at the Site.
 8. By virtue of the above, the Respondent has created and maintained a condition and discharge which reasonably can be expected to create a source of pollution to the waters of the State in violation of Connecticut General Statute §22a-427, has initiated, created, originated or maintained an unpermitted discharge in violation of Connecticut General Statute §22a-430, and has violated the provisions of Marine Terminal License No. MT031.
 9. By agreeing to the issuance of this Consent Order, the Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraphs A.1. to A.3., inclusive.
- B. With the agreement of Respondent, the Commissioner, acting under §22a-6, §22a-424, §22a-425, §22a-428, §22a-430, §22a-431, §22a-432, §22a-433 and §22a-449 of the Connecticut General Statutes, orders Respondent as follows:
1.
 - a. Qualified Consultant. On or before 30 days from the issuance of this order, Respondent shall retain one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this order and shall, by that date, notify the Commissioner in writing of the identity of such consultants. Respondent shall retain one or more qualified consultants acceptable to the Commissioner until this order is fully complied with, and, within 10 days after retaining any consultant other than one(s) originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant. Respondent shall submit to the Commissioner a description of the consultant's education, experience and training which is relevant to the work required by this order within 10 days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 - b. Best Management Practices. On or before 30 days from the issuance of this order, Respondent shall submit for the Commissioner's review and written approval a plan for best management practices for preventing and appropriately responding to releases at the Site which shall include but not limited to training of personnel directly involved in the movement of product or the implementation of response plans required by the Marine Terminal License No. MT031. Within 15 days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
 - c. Scope of Study. On or before 30 days from the issuance of this Consent Order, Respondent shall submit for the Commissioner's review and written approval a scope of study for investigating the potential impact of pollution on human health and the environment both on-site and off-site, including but not limited to the existing and potential extent and degree of soil, sediments, ground water and

surface water pollution. Such scope of study shall include at least the proposed location and depths of ground water monitoring wells and soil, sediment and surface water sampling, a proposed sampling and analytical program including at least the parameters to be tested, proposed sampling and analytical methods, and quality assurance and quality control procedures, and a schedule for conducting the investigation.

d. Investigation. On or before 30 days after written approval of the scope of study, Respondent shall perform the investigation and other actions specified in the approved scope of study in accordance with the approved scope of study and approved schedule. Respondent shall notify the Commissioner of the date and time of installation of monitoring wells and of each soil, sediment and water sampling event at least 5 full business days prior to such installation or sampling.

e. Supplemental Scope of Study. If the investigation carried out under an approved scope of study does not fully characterize the extent and degree of soil, sediment, surface water and ground water pollution to the satisfaction of the Commissioner, additional investigation shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before 30 days after notice from the Commissioner that they are required.

f. Investigation Report, Remedial Alternatives Evaluation, Remedial Action Plan, Monitoring Plan. Except as may be provided in the investigation schedule approved by the Commissioner, on or before 30 days after the approved date for completion of the investigation, Respondent shall submit for the Commissioner's review and written approval a comprehensive and thorough report which describes in detail the investigation performed; identifies the type, quantity and location of all wastes on site; defines the existing and potential extent and degree of soil, sediment, surface water and ground water pollution which is on, is emanating from or has emanated from the site; and evaluates the alternatives for remedial actions to abate such pollution, including but not limited to any alternative specified by the Commissioner; states in detail the most expeditious schedule for performing each alternative, and lists all permits and approvals required for each alternative, including but not limited to any permits required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368, 22a-430 or 22a-467 of the Connecticut General Statutes; proposes a preferred alternative with supporting justification therefore; and proposes a detailed program and schedule to perform the preferred remedial actions, including but not limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions. Such report shall also include but not be limited to a soil, sediment, surface water and ground water monitoring program to determine the degree to which the approved remedial actions have been effective, and a schedule for performing the approved monitoring program.

- g. Contract Plans and Specifications. Unless another deadline is specified in writing by the Commissioner, on or before 30 days after approval of the report described in the preceding paragraph, Respondent shall submit for the Commissioner's review and written approval contract plans and specifications for the approved remedial actions, a revised list of all permits and approvals required for such actions, and a revised schedule for applying for and obtaining such permits and approvals. Respondent shall use best efforts to obtain all required permits and approvals.
 - h. Remediation Completion. Respondent shall perform the approved remedial actions in accordance with the plan and schedule as approved in writing by the Commissioner. Within 15 days after completing such actions, the Respondent shall certify to the Commissioner in writing that the actions have been completed as approved.
 - i. Monitoring, Further Remediation. Respondent shall perform the approved monitoring program to determine the effectiveness of the remedial actions in accordance with the approved schedule. If the approved remedial actions do not result in the prevention and abatement of soil, sediment, surface water and ground water pollution to the satisfaction of the Commissioner, additional remedial actions and measures for monitoring and reporting on the effectiveness of those actions shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before 30 days after notice for the Commissioner that they are required.
 - j. Monitoring Report. On a schedule established by the Commissioner or, if no such schedule is established, on a quarterly basis beginning no later than ninety days after initiation of the approved remedial actions or, as applicable, supplemental remedial actions, Respondent shall submit for the Commissioner's review and written approval a report describing the results to date of the monitoring program to determine the effectiveness of the remedial actions.
 - k. Approvals. Respondent may request that the Commissioner approve, in writing, revisions to any document approved hereunder in order to make such document consistent with law or for any other appropriate reason.
- 2. Progress reports. On or before the last day of each month following issuance of this Consent Order and continuing until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction, Respondent shall submit a progress report to the Commissioner describing the actions which Respondent has taken to date to comply with this Consent Order.
 - 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 30 days after issuance of this consent order, Respondents shall pay a penalty of \$64,500.00 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.4 through A.8 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 "Connecticut Department of Energy and Environmental Protection." The check shall state on its face, "Bureau of Materials Management and Compliance Assurance – Marine Terminal Program civil penalty, consent order COWSMT 19-003." A copy of the check shall be mailed to Department of Energy and Environmental Protection, Marine Terminal Program, 79 Elm St., Hartford, CT 06106-5127.
6. Sampling All sampling required by this Consent Order shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with most recent final version of the U. S. Environmental Protection Agency publication SW-846, entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," the most recent final version of the Department's "Site Characterization Guidance Document," and relevant policies and guidelines issued by the Commissioner.
7. Sample analyses. All sample analyses which are required by this Consent Order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health and approved to conduct such analyses. In addition, the Reasonable Confidence Protocols shall be used when there is a method published by Department. In all cases where the Reasonable Confidence Protocol method is used, a properly completed laboratory QA/QC certification form, certified by the laboratory shall be provided to the Commissioner with the analytical data.

In cases where a Reasonable Confidence Protocol method has not been published, the analytical data shall be generated using a method approved by the Commissioner, such method shall include and report a level of quality control and documentation equivalent to the Reasonable Confidence Protocols.

The reporting limit shall be established consistent with the Reasonable Confidence Protocols and standard industrial and laboratory practices. The Reporting Limit shall not be set at levels greater than those used in such standard practices, as determined by the Commissioner, in consultation with the Commissioner of Public Health and in no case shall be greater than the Applicable Criteria or Background Concentration established in 22a-133k-1 through 22a-133k-3 of the Regulations of Connecticut State Agencies. The Reporting Limit for a given

sample shall be corrected for specific sample weight or volume; and dilutions, and, for soil and sediment samples moisture content (reported as dry weight).

8. 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.
9. Definitions. As used in this order, "Commissioner" means the Commissioner or a representative of the Commissioner.
10. Dates. The date of "issuance" of this Consent Order is the date the 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 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.
11. 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 a 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 individuals responsible for actually preparing such document, and Respondent or Respondent's chief executive officer 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 is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.”

12. False statements. Any false statement in any information submitted pursuant to this Consent Order is 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 have 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' 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. 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, including but not limited to those described in this Consent Order. 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 facility or the Site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
18. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this Consent Order may subject to Respondent to an injunction and penalties.
19. 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.

20. Notice to Commissioner of changes. Within 15 days of the date Respondent become 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.
21. 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(s) 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.
22. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in this order or in writing by the Commissioner, be directed to:

Mr. David J. Keating
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Storage Tank and PCB Enforcement Program
79 Elm Street
Hartford, Connecticut 06106-5127

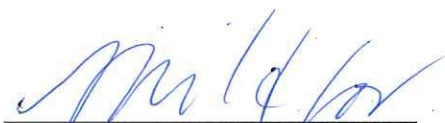
Respondent consents to the issuance of this Consent Order without further notice. The undersigned certify that they are fully authorized to enter into this Consent Order and to legally bind the Respondent to the terms and conditions of the Consent Order.


Gulf Oil, Limited Partnership

SVP & CEO
TITLE

12/13/2019
Date

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

BY: 
Katharine S. Dykes
Commissioner

12/31/19
Date

Order # COWSMT 19-003
Certified Mail RRR
City of New Haven Land Records