



STATE OF CONNECTICUT

: ORDER NO. COWSMT 21-001

:

v.

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:

**11/19/2021**

American Greenfuels, LLC

: Date of Issuance \_\_\_\_\_

### CONSENT ORDER

A. With the agreement of American Greenfuels, LLC (“Respondent”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:

1. Respondent leases property with an address of 30 Waterfront Street, New Haven, Connecticut (“the Property”) from New Haven Terminals, Inc. (“NHT”). Respondent operates a facility at the Property for the production of biodiesel from used cooking oil and vegetables oils. 30 Waterfront Street is referred to as the “Property” in the remainder of this Consent Order and is one of the parcels more fully described in a single deed which is recorded at Page 328 of Volume 7828 in the City of New Haven Land Records, and as Block 0951, Lot 100 on Map 066 in the City of New Haven Tax Assessor's Office.
2. Respondent's predecessor, GreenLeaf Biofuels, LLC, which company leased the Property from NHT and which was also engaged in the production of biodiesel at the Property, was issued Notice of Violation Number NOVWSMT 13-001 on August 27, 2013 for creating an unpermitted discharge when overfilling above ground storage tanks at the Property.
3. Respondent acquired GreenLeaf Biofuels, LLC in December 2015.
4. Since January 1, 2014, there have been twenty (20) releases of non-petroleum liquids at the Property, which GreenLeaf Biofuels, LLC or Respondent reported to DEEP.
5. By virtue of the above, Respondent has created or has maintained conditions which reasonably can be expected to create sources of pollution to the waters of the State, in violation of Connecticut General Statutes (“CGS”) section 22a-427.

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6. Respondent has retained the services of Triton Environmental, Inc. to assist in the development and implementation of training related to spill prevention, containment, and reporting for existing staff and new staff at Respondent's facility. Respondent has conducted such training for existing employees and continues to conduct training for its new hires. These actions satisfy Paragraph B.1 and partially satisfy Paragraph B.12.
7. By its agreement to the issuance of and its compliance with this Consent Order, Respondent makes no admission of fact or law with respect to the matters addressed herein, including the allegations set forth above, other than facts stated in Paragraphs A.1. through A. 4. and Paragraph A.6.

B. With the agreement of Respondent, the Commissioner, acting under CGS sections 22a-6, 22a-424, 22a-430, 22a-432, 22a-433, 22a-438 and 22a-449, orders Respondent as follows:

1. Engage consultant. Respondent may continue to use the services of Triton Environmental, Inc. ("Triton") as necessary until this Consent Order is fully complied with and has specifically identified J. Carver Glezen (LEP #338) of Triton ("the Respondent's LEP") to provide and oversee implementation of the plan submitted and approved in accordance with Paragraph B.2. of this Order. Within ten (10) days after retaining any consultant other than Triton, Respondent shall notify the Commissioner in writing of the identity of such other consultant. Respondent shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this Consent Order within ten (10) days after a request for such description. Nothing in this Paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
2. Scope of work. Respondent, through the Respondent's LEP, shall provide documentation of investigation conducted prior to issuance of this Consent Order that is relevant to residual contamination from the reported releases or overfilling identified in Paragraphs A.2. and A.4. of this Consent Order as well as a plan and schedule for the Commissioner's approval to investigate, to the extent not already investigated, the locations where the reported releases or overfilling identified in Paragraphs A.2. and A.4. of this Consent Order occurred to ensure no residual contamination from releases or overfilling of non-petroleum liquids at such locations remains or continues to be in any way a source or potential source of pollution to the waters of the state as more particularly set forth below.

To the extent any residual contamination from releases or overfilling of non-petroleum liquids are observed in exposed soils or on other surfaces or if testing has identified unacceptable soil concentrations from the such releases, the plan shall include steps to clean or remove or otherwise mitigate the residual contamination or contaminated material to the extent required to comply with the Remediation

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Standard Regulations, Regulations of Connecticut State Agencies (“RCSA”) sections 22a-133k-1 through 22a-133k-3 (the “RSRs”). Where removal or mitigation of contaminated material is proposed, the plan shall include a final investigation of such locations where contaminated material was removed or mitigated, as appropriate, including a sampling plan where appropriate to confirm that any residual contamination or contaminated material was effectively removed or mitigated as required to comply with the RSRs.

To the extent any non-petroleum liquids from the location of reported releases entered or are determined to have entered a storm drain or catch basin, the plan shall include the inspection of the storm drain or catch basin to ensure there is no ongoing source of contamination from the releases or overfilling that could reach the waters of the state. Any residual contamination from a release or overfilling incident within a storm drain or catch basin shall be properly mitigated or removed as required to comply with the RSRs.

3. Performance of Approved Scope of Work. On or before thirty (30) days after written approval of the Scope of Work, Respondent shall initiate the investigation and other actions specified in the approved Scope of Work in accordance with the approved Scope of Work and the approved schedule. Respondent shall complete the investigation and other actions specified in the approved Scope of Work in accordance with the approved schedule and submit a final report to the Commissioner documenting completion of the Scope of Work as approved.
4. Supplemental plan and investigation. If the investigation carried out under the approved Scope of Work does not fully characterize the extent and degree of soil, surface water and groundwater pollution to the satisfaction of the Commissioner, additional investigation(s) 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 thirty (30) days after notice from the Commissioner that they are required.
5. Permits. Unless otherwise approved by the Commissioner, on or before fifteen (15) days after the Commissioner has approved a scope of work pursuant to Paragraph B.2. above Respondent shall apply for any permits that are necessary to carry out the remedial action approved by the Commissioner. Respondent shall ensure that such applications are complete and shall diligently pursue the issuance of such permits. Within five (5) days of application for any such permit referred to in this Paragraph, Respondent shall submit a complete copy of such application to the Commissioner. Should the Commissioner request additional information as part of the permit review and evaluation process, such information shall be submitted on or before thirty (30) days of receiving a written request from the Commissioner.

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6. Notice. On or before ten (10) days after receipt of any required permit or approval referred to in Paragraph B.5. above, Respondent shall submit to the Commissioner notice of receiving such permit or approval, and shall, upon the Commissioner's written request, submit a copy of such permit.
7. Performance of remedial action. Respondent shall perform the approved remedial actions in accordance with the plan and schedule as approved in writing by the Commissioner. On or before fifteen (15) days from Respondent's completion of such remedial actions, Respondent shall certify to the Commissioner in writing that the remedial actions have been completed as approved.
8. Additional remedial actions, measures and reporting. If the approved remedial actions do not result in the prevention and abatement of soil, sediment, surface water and groundwater 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 the RSRs and a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule to implement such plan shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that such plan and schedule are required.
9. Progress report. On a schedule established by the Commissioner or, if no such schedule is established, on a quarterly basis beginning no later than ninety (90) days after 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 Respondent's actions to date to comply with this Consent Order.
10. 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 procedures have been specified or approved, in accordance with the 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 version of the Department's "Site Characterization Guidance Document", and relevant policies and guidelines issued by the Commissioner.
11. 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. The Reasonable Confidence Protocols ("RCPs") shall be used when there is a method published by the Department. In all cases where the RCP method is used, a properly completed laboratory QA/QC certification form, certified by

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the laboratory shall be provided to the Commissioner with the analytical data. In cases where an RCP 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 RCPs. The Reporting Limit shall be established consistent with the RCPs 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 by Regulations of Connecticut State Agencies (“RCSA”) sections 22a-133k-1 through 22a-133k-3. 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).

12. Plan for best management practices. If Respondent continues to store non-petroleum liquids at the Property after issuance of this Consent Order, Respondent shall submit within 60 days of the issuance of this Order a plan for the Commissioner’s review and written approval identifying best management practices (“the Plan”) for the storage and handling of said non-petroleum liquids at the Property. The Plan shall include measures to:
  - a. eliminate any and all unpermitted discharges of non-petroleum liquids at the Property;
  - b. identify and provide training as needed for current and new employees;
  - c. effectively and efficiently communicate any incidents to local and state authorities as required, including DEEP, and within legally required timeframes;
  - d. maintain spill prevention and control equipment; and
  - e. conduct incident drills on a regular basis.

After the Commissioner approves the Plan, Respondent shall carry out the Plan and maintain it in full effect thereafter.

13. 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 satisfaction of the Commissioner.
14. Civil penalty. On or before thirty (30) days after the issuance of this Consent Order, Respondent shall pay a penalty of \$12,600 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in Paragraphs A.2., A.4. and A.5. of this Consent Order.
15. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the **Department of Energy and Environmental**

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***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, Emergency Response and Spill Prevention Division, civil penalty, Consent Order Number COWSMT 21-001."***

16. **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 thirty (30) days of the Commissioner's notice of deficiencies. Nothing in this Paragraph shall excuse noncompliance or delay.
17. **Definitions.** As used in this Consent Order, "Commissioner" means the Commissioner of Energy and Environmental Protection or an agent of the Commissioner.
18. **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 by the Commissioner, 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 on or before the next day which is not a Saturday, Sunday or Connecticut or federal holiday. Notwithstanding the foregoing, due to the COVID-19 pandemic, the following shall apply. The date of "issuance" of this Consent Order is the date the Consent Order is sent to the Respondent via electronic mail. In addition, for documents to be submitted to the Commissioner, until such time as the Commissioner notifies the Respondent that documents must be submitted via U.S. mail or by personal delivery, the Respondent may submit documents to the Commissioner electronically and the date of submission of any such document shall be the date such document is received by electronic mail. Nothing in the foregoing is intended preclude the Commissioner from requiring that a document submitted electronically also be submitted via U.S. mail or by personal delivery within the

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timeframe specified by the Commissioner. With respect to notices from the Commissioner under this Consent Order, until such time as the Commissioner notifies the Respondent that notices will be provided via U.S. mail or by personal delivery, such notices may be sent electronically and 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 sent via electronic mail.

19. Notification of noncompliance. In the event that Respondent become aware that they 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 the Commissioner 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. In so notifying the Commissioner, Respondent shall state in writing 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 that 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.
20. 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 such Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in RCSA section 22a-430-3(b)(2) and by the Licensed Environmental Professional or other individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: *"I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."*
21. 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 Respondent to an injunction and penalties under CGS Chapters 439, and 445 or 446k.
22. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under CGS sections 22a-

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438 or 22a-131a, or in accordance with CGS section 22a-6, under CGS section 53a-157.

23. Notice of transfer; liability of Respondent and others. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the operations which are the subject of this Consent Order, the site, or the business, 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 other person or municipality. Any future owner of the site may be subject to the issuance of an order from the Commissioner.
24. 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 violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not fully characterized the extent and degree of pollution or have not 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 pollution.
25. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of the other obligations under applicable federal, state and local law.
26. 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.
27. 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.
28. No effect on rights of other persons. This Consent Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order.
29. Notice to Commissioner of changes. Within fifteen (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.

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30. Submission of documents. Any document or notice to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

David J. Keating  
Department of Energy and Environmental Protection  
Emergency Response and Spill Prevention Division  
Storage Tank & PCB Enforcement Unit  
79 Elm Street Hartford,  
Connecticut 06106-5127  
[David.Keating@ct.gov](mailto:David.Keating@ct.gov)

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American Greenfuels, LLC consents to the issuance of this Consent Order without further notice. The undersigned certifies that Kevin Luddy is fully authorized to enter into this Consent Order and to legally bind American Greenfuels, LLC to the terms and conditions of the Consent Order.

American Greenfuels, LLC

DocuSigned by:  
BY:   
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Kevin Luddy  
Executive Vice-President and Chief Financial Officer  
Kolmar Americas, Inc.

11/19/2021  
DATE: \_\_\_\_\_

ORDER NO. COWSUST 21-001

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

DocuSigned by:  
BY:   
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Betsey Wingfield  
Deputy Commissioner  
Department of Energy and Environmental Protection

11/19/2021  
DATE: \_\_\_\_\_