

Pamela Jones

**STATE OF NEW MEXICO
BEFORE THE WATER QUALITY CONTROL COMMISSION**

**NEW MEXICO ENVIRONMENT DEPARTMENT
GROUND WATER QUALITY BUREAU**

Complainant,

v.

No. WQCC 26- 56 (CO)

GREEN STREAM FARMS, LLC

Respondent.

SETTLEMENT AGREEMENT AND STIPULATED FINAL ORDER

Pursuant to the authority set forth under 20.1.3.22(B)(1) NMAC, the New Mexico Water Quality Act, NMSA 1978, Sections 74-6-1 to -17 (1953, as amended through 2025) (“Act”), the Ground and Surface Water Protection Regulations, 20.6.2 NMAC (“Regulations”), and the June 23, 2025 Delegation Order, the Compliance and Enforcement Division Water Protection Compliance and Enforcement Bureau Chief of the New Mexico Environment Department (“NMED”) hereby enters into this Settlement Agreement (“Agreement”) and, upon Green Stream Farms, LLC’s (“Respondent”) full performance of all obligations hereunder, will issue this Stipulated Final Order (“Final Order”) to resolve the alleged violations set forth in Administrative Compliance Order No. GWQB 24 (CO) (“ACO”) issued by NMED to Respondent on August 2, 2024. Respondent is the owner, while Green Stream Algae, LLC is the operator, of an algal biorefinery facility near Columbus, New Mexico. NMED, Respondent, and Green Stream Algae, LLC (collectively “the Parties”) have agreed to the terms and conditions specified in this Agreement pursuant to 20.1.3.22(B) NMAC. The Agreement resolves all alleged statutory and

Page 1 of 13

regulatory violations of the Act and the Regulations, as described in the August 2, 2024 ACO. For the purposes of this Agreement, the Parties do not contest the jurisdictional allegations in the ACO and consent to the relief specified in the Agreement, including the assessment of the stated civil penalty.

I. BACKGROUND

1. NMED was created pursuant to NMSA 1978, Section 9-7A-4 (1991, as amended through 2005) and is charged with the administration and enforcement of the Act and Regulations. The Ground Water Quality Bureau (“GWQB”) is an organizational unit of NMED within its Water Protection Division. The Water Protection Compliance and Enforcement Bureau (“Bureau”) is also an organizational unit of NMED within its Compliance and Enforcement Division. The GWQB and Bureau were created pursuant to authority granted under NMSA 1978, Section 9-7A-6(B)(3).

2. Pursuant to the Delegation Order dated June 23, 2025, the Secretary of NMED has delegated authority to enter into Settlement Agreements under the Act and Regulations to both the Director of the Compliance and Enforcement Division and the Bureau Chief of the Water Protection Compliance and Enforcement Bureau.

3. NMED is a constituent agency of the New Mexico Quality Control Commission (“WQCC”). NMSA 1978, §§ 74-6-2(E)(1) and (G).

4. Respondent is a “person” as defined in NMSA 1978, § 74-6-2(Q) of the Act and 20.6.2.7(P)(2) NMAC.

5. Respondent owns an algal biorefinery facility near Columbus, New Mexico, but does not have any involvement with operations associated with the said facility.

6. Green Stream Algae, LLC operates the algal biorefinery facility and leases the

facility from Respondent.

7. Green Stream Algae, LLC is a “person” as defined in NMSA 1978, § 74-6-2(Q) of the Act and 20.6.2.7(P)(2) NMAC.

8. Respondent, as the owner, and Green Stream Algae, LLC, as the operator, are responsible parties under the Act. NMSA 1978, § 74-6-2(T)(I).

9. Respondent discharges up to 538,000 gallons per day (“gpd”) of propagation wastewater to two synthetically lined evaporation impoundments for disposal, and 360 gpd of domestic wastewater to a septic tank/leachfield system. Additionally, Respondent holds up to 33 million gallons per day (“MGD”) of algae propagation water in up to 77 synthetically lined inoculation, propagation, harvest return impoundments. The discharge contains water contaminants such as nitrogen compounds that may exceed the standards of 20.6.2.3103 NMAC.

10. The discharge site is located at 1500 West Highway 9, approximately 8 miles west of Columbus, New Mexico, Luna County (“Facility”).

11. NMED issued discharge permit number 1785 (“DP-1785”) to Respondent on December 31, 2018. The permit expired on December 30, 2023.

II. ALLEGED VIOLATIONS

12. On February 19, 2024, NMED issued a Notice of Violation (“NOV”) to Respondent via email and physical mail for failing to submit a groundwater discharge permit application for renewal (renewal application). The NOV included a deadline of March 18, 2024 (30 days from issuance of the NOV) to submit an application and filing fee.

13. NMED did not receive the permit renewal application by the required deadline, so NMED issued the ACO to Respondent on August 2, 2024. The ACO alleged the following violation:

- a. **Violation 1:** Respondent has violated 20.6.2.3106(G) NMAC by failing to submit a completed Discharge Permit application prior to the expiration of DP-1785.

14. The ACO assessed a civil penalty of \$435,600.00 against the Respondent for the above-described alleged violation. Additionally, the ACO assessed administrative compliance costs in the amount of \$4,861.50, calculated to include NMED's personnel costs associated with investigating the alleged violations and ensuring return to compliance.

15. On August 27, 2024, Respondent submitted the permit renewal application thereby resolving the violation alleged in the ACO.

16. On September 2, 2024, the ACO became a Final Order.

17. Pursuant to Paragraph 24 of the ACO, payment of the civil penalties was due within 30 calendar days after the ACO became a Final Order.

18. On September 11, 2024, NMED received a letter from Green Stream Algae, LLC requesting a reduction of the civil penalty.

19. On January 8, 2026, NMED issued a letter to Respondent reminding it of the outstanding civil penalty and informing Respondent that the civil penalty reduction request sent on September 11, 2024, was not sufficient as it was missing supporting documentation.

20. On January 27, 2026, NMED received another request from Green Stream Algae, LLC requesting a reduction of the civil penalty and providing supporting documentation to support the request.

21. On February 10, 2026, counsel for the Respondent sent correspondence to NMED indicating that it was not aware of the investigation, the NOV, the ACO, or the Final Order, and that all matters should be addressed by and through Green Stream Algae, LLC, who was the operator of the algal biorefinery facility. Thereafter, the parties had various discussions and

obtained a better understanding of the relationship between Respondent and Green Stream Algae, LLC as it relates to operation of the said facility.

III. COMPROMISE AND SETTLEMENT

22. Pursuant to 20.1.3.22(B)(1) NMAC, Respondent and Green Stream Algae, LLC admit to the jurisdictional allegations of this Agreement and consent to the relief specified herein, including the civil penalty.

23. The Parties have agreed, that in full and complete compromise and settlement of the alleged violations specified herein and upon consideration of the nature of violations, Respondent's good faith efforts to comply, and such other materials as justice may require, it is hereby ORDERED that:

Civil Penalty

24. In compromise and settlement of the violations set forth in the ACO, and upon consideration of the seriousness of the violations and Respondent's commitment to corrective action, the Parties agree that Respondent shall pay a total civil penalty of \$13,000.00. Respondent shall also pay administrative compliance costs in the amount of \$2,000.

25. Respondent shall pay the \$13,000.00 civil penalty in addition to the administrative compliance costs of \$2,000.00 over a twelve-month timeframe. The first payment of \$1,250 shall be 30 calendar days from the effective date of this Agreement and each payment thereafter shall be the first day of each month until the civil penalty is paid in full.

26. Payment shall be made to the "New Mexico Environment Department" via ACH or EFT deposit using this account and deposit information. Respondent shall issue separate payments for civil penalties and administrative compliance costs:

Wells Fargo Bank, N.A.

100 W. Washington Street, Floor 20
Phoenix, AZ 85003

Routing Transit Number: 121000248
Deposit Account Number: 4123107799
Descriptor: GWQB 24 (CO)

27. Respondent agrees to remit and label the payments in the following manner as required for NMED's internal accounting purposes:

a. The civil penalties in the amount of \$13,000.00 shall be paid for alleged violations of the Act and Regulations, with the following descriptor added to each ACH or EFT deposit: GWQB 24 (CO)

b. The amount of \$2,000.00 shall be paid for administrative compliance costs calculated to cover NMED personnel costs associated with inspecting the facility, performing compliance actions, ensuring return to compliance, and negotiating a settlement, with the following descriptor added to each ACH or EFT deposit: GWQB-24(CO)ACC.

28. On the date(s) that the deposits of funds are initiated, Respondent shall email the Compliance and Enforcement Division Financial Manager EJ Peinado at ej.peinado@env.nm.gov. In the email, Respondent shall attach the first page of the executed Agreement and Final Order for reference, list the date, dollar amount, and descriptor for each deposit, and provide the name and contact information in the event that follow up information about payments is needed.

29. If Respondent fails to make a timely and complete payment of the civil penalty, Respondent or Green Stream Algae, LLC shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. Respondent and Green Stream Algae, LLC shall not contest or dispute, in any way, the stipulated penalty of \$250.00 per day in the event that NMED brings an action against Respondent or Green Stream Algae, LLC for failure to make a

timely or complete payment.

30. As operator of the algal biorefinery facility, the Parties mutually understand and agree that Green Stream Algae, LLC will pay any civil penalty and/or assessment provided herein, and that it will likewise ensure future compliance with the Act and Regulations.

IV. ENFORCEABILITY

31. NMED retains the right to enforce this Agreement and Final Order by administrative or judicial action if Respondent fails to comply with the terms and requirements herein. In the event that NMED elects to file a judicial action to enforce this Agreement or Final Order, the Parties agree that the First Judicial District Court of Santa Fe County, New Mexico shall have exclusive jurisdiction over the Parties, the Agreement, and the Final Order. The Parties agree to waive any right to challenge that jurisdiction or venue lies with the First Judicial District Court of Santa Fe County, New Mexico. The laws of the State of New Mexico shall govern the construction and interpretation of this Agreement and Final Order.

V. RESERVATION OF RIGHTS

32. NMED reserves the right to pursue civil or administrative relief for any violations of state or federal law, past or future, which are not the subject matter of this Agreement in accordance with applicable law. NMED further retains the right, as provided by law, to inspect or investigate the Facility and related records upon reasonable notice to Respondent, except in cases of emergency or where notice would compromise the inspection or investigation. Such inspections shall be conducted during normal business hours unless otherwise agreed or in cases of emergency. Respondent reserves the right to assert any and all defenses that they may have to any civil, administrative or judicial action that may be asserted by NMED as described by the terms of this paragraph. Except as expressly provided herein, the Parties reserve all other legal privileges and

rights.

VI. WAIVER OF STATE LIABILITY

33. Respondent shall assume all costs and liabilities directly arising from and reasonably incurred in performing the specific obligations expressly set forth under this Agreement. NMED, on its own belief and on behalf of the State of New Mexico, does not assume any liability for Respondent's performance of any obligation under this Agreement and Final Order. Nothing in this paragraph shall be construed to impose liability on Respondent for costs or liabilities arising from third-party actions, NMED's own actions or omissions, or matters outside the scope of this Agreement.

VII. EFFECTIVE DATE AND TERMINATION DATE

34. This Agreement and Final Order shall become effective on the date it is approved and signed by the duly authorized representative of the New Mexico Water Quality Control Commission ("WQCC") pursuant to 20.1.3.22(B) NMAC, provided that all Parties have signed the Agreement. If the WQCC does not approve of the Agreement and Final Order, the matter shall proceed as if there had been no settlement or stipulated final order.

35. This Agreement shall terminate when Respondent has fulfilled the requirements of this Agreement and Final Order. Notwithstanding, this Agreement shall constitute a full and final satisfaction and release of the NOV, the ACO, and the Final Order that was issued by NMED to Respondent on August 2, 2024.

VIII. GOOD FAITH PERFORMANCE

36. The Parties agree that they will act reasonably and in good faith at all times to accomplish the objectives of this Agreement and Final Order. In the event of any dispute regarding the interpretation or performance of this Agreement, the Parties agree to meet and confer in good

faith to resolve such dispute before pursuing formal enforcement actions. NMED agrees to provide Respondent with written notice of any alleged breach and a reasonable opportunity to cure, except in cases of imminent threat to public health or the environment.

IX. MERGER AND INTEGRATION

37. This Agreement and Final Order merges and incorporates all prior written and oral communications between the Parties concerning the matters addressed in this Agreement and Final Order, and contains the entire agreement reached between the Parties with respect to the subject matter hereof. This Agreement and Final Order supersedes all prior agreements, understandings, negotiations, and discussions, whether written or oral, between the Parties relating to the subject matter of this Agreement. This Agreement and Final Order shall not be altered, amended or construed by any communications whether written or oral, which are not contained herein, unless pursuant to Paragraph 38 below. No representations, warranties, or agreements have been made except as expressly set forth in this Agreement and Final Order.

X. AMENDMENTS

38. This Agreement and Final Order may be amended only by mutual written agreement of the Parties and final approval by the WQCC. Such amendment(s) shall be in writing, signed by authorized representatives of both Parties, and approved by the NMED Compliance and Enforcement Division Director, with the concurrence of NMED General Counsel, pursuant to the June 23, 2025, Delegation Order.

XI. NON-ADMISSION

39. Respondent and Green Stream Algae, LLC are entering into this Agreement solely for purposes of settlement. Nothing in this Agreement and Final Order shall constitute or be construed as an admission of any fault, liability, violation, or wrongdoing of any nature on the part

of any party, including any employee, agent, representative, manager, member, or officer of the parties. This Agreement and Final Order, and any actions taken pursuant to it, shall not be admissible as evidence in any civil, criminal, or administrative proceeding, except in proceedings to enforce the terms of this Agreement and Final Order by NMED. There is no private right of action, explicit or implicit, created by this Agreement or the Final Order for any third-party to enforce its terms or conditions.

40. Respondent and Green Stream Algae, LLC believe that they have cooperated fully with NMED throughout the inquiry, and that they will continue to cooperate as to all future inquiries. Although Respondent and Green Stream Algae, LLC deny that they have engaged in unlawful or otherwise inappropriate business acts and practices, they agree to this Agreement so that this matter may be amicably resolved, without further cost or inconvenience to NMED.

XII. BINDING EFFECT

41. This Agreement and Final Order shall apply to, and be binding upon, the Parties and their respective successors and assigns who acquire all or substantially all of the Facility or operations that are the subject of this Agreement. Any successor or assign shall assume the rights and obligations of Respondent and Green Stream Algae, LLC under this Agreement.

42. Respondent and Green Stream Algae, LLC shall disclose this Agreement and Final Order to any successor-in-interest who acquires all or substantially all of the Facility or operations subject to this Agreement and shall advise such successor-in-interest that the Agreement and Final Order may be binding on the successor-in-interest.

XIII. AUTHORITY OF SIGNATORIES

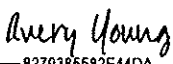
43. The signatories of this Agreement and Final Order respectively represent that they have the requisite authority to bind the Parties to the terms of this Agreement and Final Order, and

further agree that this representation of authority as to each such entity shall be legally sufficient evidence of actual or apparent authority to bind each of them to all of the terms and conditions of this Agreement and Final Order.

44. This Agreement and Final Order may be signed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

[Remainder of page intentionally left blank; signature page follows]

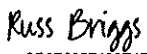
NEW MEXICO ENVIRONMENT DEPARTMENT

DocuSigned by:

8270385582E44DA...
Avery Young
Bureau Chief
Water Protection Compliance and
Enforcement Bureau

6/25/2026

DATE

GREEN STREAM FARMS, LLC

DocuSigned by:

CD9F685F189E4D8...
Russell K. Briggs
Manager (Permit Holder)

6/25/2026

DATE

GREEN STREAM ALGAE, LLC

DocuSigned by:

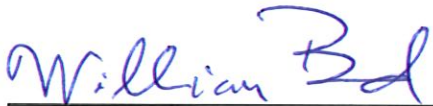
5E42930EF24E452...
Todd Hansen
Chief Executive Officer
Manager

6/25/2026

DATE

**APPROVAL OF SETTLEMENT AGREEMENT AND
STIPULATED FINAL ORDER**

This Settlement Agreement and Stipulated Final Order, agreed to by the New Mexico Environment Department, Respondent, and Green Stream Algae, LLC, is hereby APPROVED as a FINAL ORDER issued pursuant to 20.1.3.22(B)(1) NMAC.



WILLIAM BRANCARD

Chair of the Water Quality Control Commission

Date: July 16, 2026

**STATE OF NEW MEXICO
NEW MEXICO ENVIRONMENT DEPARTMENT
WATER PROTECTION DIVISION
GROUND WATER QUALITY BUREAU**

IN THE MATTER OF:

GREEN STREAM FARMS, LLC

No.: GWQB 24-__ (CO)

Respondent.

**ADMINISTRATIVE COMPLIANCE ORDER
REQUIRING COMPLIANCE AND ASSESSING A CIVIL PENALTY**

Pursuant to the New Mexico Water Quality Act ("WQA"), NMSA 1978, Sections 74-6-1 to -17, and the New Mexico Water Quality Control Commission Regulations ("WQCC Regulations"), 20.6.2 NMAC, and pursuant to a delegation of authority from the Secretary of the New Mexico Environment Department ("NMED"), the Chief of the Ground Water Quality Bureau of NMED issues this Administrative Compliance Order ("Order") on behalf of NMED's Ground Water Quality Bureau ("Bureau") to Green Stream Farms, LLC ("Respondent"). The purpose of this Order is to enforce the WQA and WQCC Regulations, and to assess a civil penalty for Permittee's violation of the WQA and WQCC Regulations.

I. FINDINGS OF FACT

1. Pursuant to NMSA 1978, Section 9-7A-4, NMED is an executive agency within the New Mexico state government. Pursuant to NMSA 1978 Section 74-6-2(K)(1), NMED is a constituent agency of the New Mexico Water Quality Control Commission.

2. The Bureau is an organizational unit of NMED within its Water Protection Division. The Bureau was created pursuant to authority granted under NMSA 1978, Section 9-7A-6(B)(3).

*Administrative Compliance Order
Green Stream Farms – August 2, 2024
Page 1 of 13*

NMED Exhibit 2

3. Pursuant to NMSA 1978 Section 74-6-10(A)(1), whenever, on the basis of any information, a constituent agency determines that a person violated or is violating a requirement, regulation or water quality standard adopted pursuant to the WQA or a condition of a permit issued pursuant to that act, the constituent agency may issue a compliance order requiring compliance immediately or within a specified time period or issue a compliance order assessing a civil penalty.

4. Pursuant to a delegation of authority from the Secretary of NMED, the Bureau Chief of the Ground water Quality Bureau of NMED has authority to issue Administrative Compliance Orders on behalf of the Bureau. NMSA 1978, § 9-7A-6(B)(2).

5. Respondent owns and operates an algal biorefinery facility near Columbus, New Mexico.

6. Respondent is a “person” as defined in NMSA 1978 Section 74-6-2(I) of the WQA and 20.6.2.7(P)(2) NMAC.

7. Respondent discharges up to 538,000 gallons per day (“gpd”) of propagation wastewater to two synthetically lined evaporation impoundments for disposal, and 360 gpd of domestic wastewater to a septic tank/leachfield system. Additionally, Respondent holds up to 33 million gallons per day (“MGD”) of algae propagation water in up to 77 synthetically lined inoculation, propagation, harvest return impoundments. The discharge contains water contaminants such as nitrogen compounds that may exceed the standards of 20.6.2.3103 NMAC.

8. The discharge site is located at 1500 West Highway 9, approximately 8 miles west of Columbus, New Mexico, Luna County (“Facility”).

9. NMED issued discharge Permit Number 1785 (“DP-1785”) to Respondent on December 31, 2018. The permit expired on December 30, 2023

10. On July 19, 2023, the Bureau sent the Respondent a permit renewal reminder letter by USPS mail.

11. On October 12, 2023, the Bureau updated the contact information for the facility and sent Respondent an email that included a copy of the renewal reminder letter of July 19, 2023 and a copy of DP-1785.

12. Respondent responded to the October 12, 2023, email from the Bureau and stated that it would renew the discharge permit.

13. Respondent failed to submit a renewal application before the expiration of DP-1785 on December 30, 2023, so on February 19, 2024, the Bureau issued a Notice of Violation ("NOV", Exhibit 1) to Respondent via email and physical mail for failing to submit a groundwater discharge permit application for renewal (renewal application) in a timely manner.

14. The NOV included a deadline of March 18, 2024 (30 days from NOV issuance) to submit an application and filing fee in order to prevent further issuance of a compliance order.

15. On February 20, 2024, Respondent contacted the Bureau via telephone to clarify some questions Respondent had regarding the application format.

16. On February 21, 2024, Respondent sent an email to the Bureau requesting the application template. The Bureau responded by email and provided Respondent a blank copy of the application as well as the last filled out application for reference.

17. As of the date of the issuance of this Order, Respondent has failed to submit a renewal application.

II. VIOLATION

18. **Violation 1:** Respondent has violated 20.6.2.3106.G NMAC by failing to submit a completed Discharge Permit application after the expiration of DP-1785. NMED concludes that

*Administrative Compliance Order
Green Stream Farms – August 2, 2024
Page 3 of 13*

the Respondent has knowingly refused to comply with the WQA and WQCC Regulations despite multiple notifications from NMED regarding the expiration of DP-1785.

III. COMPLIANCE ORDER

19. Based upon the foregoing findings and conclusions, the Respondent is hereby ordered to complete the following actions in order to comply with the WQA and WQCC Regulations:

No later than thirty (30) calendar days after this Order becomes final, the Respondent shall submit an Application for Discharge Permit as specified in 20.6.2.3106.G NMAC. The Respondent must include with the application the appropriate fees found in 20.6.2.3114 NMAC.

20. The application and other associated documents or information to be submitted to the Bureau under the terms of this Order shall be sent to:

Justin D. Ball, Chief
Ground Water Quality Bureau
New Mexico Environment Department
1190 St. Francis Dr., Suite N-2250
Santa Fe, NM 87505
Telephone: 505-231-3773
Email: justin.ball@env.nm.gov

21. Failure to comply with the requirements set forth in Paragraph 19 above may subject the Respondent to additional civil penalties. Section 74-6-10(F) of the WQA authorizes the additional assessment of \$25,000 for each day of continued noncompliance if the Respondent fails to submit the permit application and any required documents as required by this Order.

IV. CIVIL PENALTY

22. Section 74-6-10(C)(1) of the WQA authorizes a civil penalty of up to \$15,000.00

*Administrative Compliance Order
Green Stream Farms – August 2, 2024
Page 4 of 13*

per day for each violation of a provision of the WQA based in Section 74-6-5 including a regulation adopted or a permit issued pursuant to that section.

23. NMED hereby assesses a civil penalty in the amount of \$440,461.50 for the violations set forth in Paragraph 18. The penalties are based upon the penalty calculation narrative attached to this Order and the administrative compliance costs incurred by NMED to create this Order. Exhibits 2 and 3.

24. Payment of the civil penalties is due no later than 30 calendar days after this Order becomes final. The Respondent shall make the payment by certified or cashier's check payable to the State of New Mexico and mailed (certified) or by pre-arranged hand delivery to the Bureau at the following address:

Justin D. Ball, Chief
Ground Water Quality Bureau
New Mexico Environment Department
1190 St. Francis Dr., Suite N-2250
Santa Fe, NM 87505
Telephone: 505-231-3773
Email: justin.ball@env.nm.gov

Written notification of the payment shall also be provided to the following address:

Michael Prinz, Assistant General Counsel
New Mexico Environment Department
1190 S. Saint Francis Drive, Suite N-4050
Santa Fe, NM 87505
Telephone: (505) 531-7887
Email: michael.prinz@env.nm.gov

V. NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING

25. Pursuant to Section 74-6-10(G) of the WQA, the Respondent has the right to answer this Order and to request a public hearing.

26. If the Respondent: (a) contests any material or legal matter upon which the Order

*Administrative Compliance Order
Green Stream Farms – August 2, 2024
Page 5 of 13*

is based; (b) contends that the amount of the penalties proposed in the Order are inappropriate; (c) contends that the Respondent is entitled to prevail as a matter of law; or (d) otherwise contests the appropriateness of the Order, Respondent may mail or deliver a written Request for a Public Hearing and Answer to the Order to the WQCC, at the following address:

Commission Administrator
Water Quality Control Commission
P.O. Box 5469
Santa Fe, NM 87502
Telephone: (505) 827-2425

27. Respondent must file the Request for a Public Hearing and Answer to the Order within 30 days after Respondent's receipt of the Order.

28. Respondent must attach a copy of this Order to its Request for a Public Hearing and Answer to the Order.

29. A copy of the Answer and Request for a Public Hearing must also be served on counsel for NMED at the following address:

Michael Prinz, Assistant General Counsel
New Mexico Environment Department
1190 S. Saint Francis Drive, Suite N-4050
Santa Fe, NM 87505
Telephone: (505) 531-7887
Email: michael.prinz@env.nm.gov

30. The Respondent's Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Order of which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, the Respondent should so state, and Respondent may deny the allegation on that basis. Any allegation of the Order not specifically denied shall be deemed admitted. The Respondent's Answer shall also include any affirmative defenses upon which Respondent intends to rely. Any affirmative defense not asserted in the

Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived.

31. The Water Quality Control Commission's Adjudicatory Procedures, 20.1.3 NMAC, shall govern the public hearing if Respondent requests a public hearing.

VI. FINALITY OF ORDER

32. This Order shall become final unless the Respondent files a Request for a Public Hearing and Answer to the Order with the WQCC within 30 days of receipt of this Order.

33. The failure to file an Answer constitutes an admission of all facts alleged in the Order and a waiver of the right to a public hearing under Section 74-6-10(G) of the Act concerning this Order.

34. Unless the Respondent requests a public hearing and files an Answer, the penalty proposed in this Order shall become due and payable without further proceedings within 30 days after receipt of this Order.

VII. SETTLEMENT

35. Whether or not Respondent requests a public hearing and files an Answer, the Respondent may confer with NMED concerning settlement. NMED encourages settlement consistent with the provisions and objectives of the Act and Regulations. To explore the possibility of settlement in this matter, the Respondent may contact the attorney assigned to this case at the following address:

Michael Prinz, Assistant General Counsel
New Mexico Environment Department
1190 S. Saint Francis Drive, Suite N-4050
Santa Fe, NM 87505
Telephone: (505) 531-7887
Email: michael.prinz@env.nm.gov

36. Settlement discussions do not extend the 30-day deadline for filing of

Respondent's Request for a Public Hearing and Answer to the Order, nor alter the deadlines for compliance with this Order. Settlement discussions may be pursued as an alternative to and simultaneously with the hearing proceedings.

37. The Respondent may appear at the settlement conference alone or represented by legal counsel.

38. Any settlement reached by the parties shall be finalized by a written settlement agreement and a stipulated final order. A settlement agreement and stipulated final order must resolve all issues raised in this Order, must be final and binding all parties to this Order, and may not be appealed.

VIII. COMPLIANCE WITH OTHER LAWS AND WAIVER

39. Compliance with the requirements of this Order does not relieve the Respondent of the obligation to comply with all other applicable laws and regulations.

IX. DISCLOSURE TO SUCCESSORS IN INTEREST

40. The Respondent shall disclose this Order to any and all successors in interest. The requirements and penalties of this Order shall be binding on any and all successors in interest, either owners or operators, of the Facility.

X. TERMINATION

41. This Order shall terminate when Respondent certifies that all requirements of this Order have been met, and NMED has approved such certification, or when the Secretary approves a stipulated final order.

Justin Ball

Justin Ball, Chief
Ground Water Quality Bureau
New Mexico Environment Department

Digitally signed by Justin Ball
Date: 2024.08.01 14:55:28
-06'00'

Date

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2024, a true and accurate copy of the Administrative Compliance Order Requiring Compliance and Assessing a Civil Penalty was served by certified mail (9589071052700331900793) and email on Respondent at the following address:

Brad Strathe, CFO
Green Stream Farms, LLC
1500 Highway 9 SW
Columbus, New Mexico 88029
bradstrathe@nbo3.com

Ray
Romero

Digitally signed by
Ray Romero
Date: 2024.08.02
09:44:25 -06'00'

Raymond R. Romero
Office Manager / Paralegal
New Mexico Environment Department
Office of General Counsel
1190 S. Saint Francis Drive, Suite N-4050
Santa Fe, NM 87505

Exhibit 1

February 19, 2024 Notice of Violation Letter

*Administrative Compliance Order
Green Stream Farms – August 2, 2024*

NMED Exhibit 2



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

NOTICE OF VIOLATION

Certified Mail - Return Receipt Requested

February 19, 2024

Brad Strathem, CFO
Sapphire Algal Biorefinery
1500 Highway 9 SW
Columbus, New Mexico 88029

RE: Notice of Violation, Sapphire Algal Biorefinery "Green Stream Farms", DP-1785

Dear Brad Strathem:

On December 31, 2018, the New Mexico Environment Department (NMED) issued a Discharge Permit Renewal DP-1785, (copy enclosed) to Green Stream Farms, pursuant to Section 20.6.2.3109 NMAC of the New Mexico Ground and Surface Water Protection Regulations. Section 20.6.2.3104 NMAC requires the permittee to comply with the terms and conditions of this Discharge Permit.

NMED has determined that the above referenced facility is operating in violation of the conditions of the Discharge Permit, the Water Quality Act (WQA), and 20.6.2 NMAC. Prompt action is required as described herein.

A summary of the events resulting in the determination of violations at this facility follows.

- Pursuant to 20.6.2.3106.G NMAC, a holder of a discharge permit must submit an application for renewal 120 days before the discharge permit expires in order for the current permit to be administratively continued. Otherwise, the permittee will be discharging without a permit after the date the current permit expires. DP-1785 expired on December 30, 2023.
- NMED has attempted to contact the Permittee regarding the expiration of the Discharge Permit and the need to submit a renewal application via mail, telephone calls, and emails.
- NMED sent the Permittee a renewal reminder by physical mail on July 19, 2023.
- On October 12, 2023, NMED updated the contact info for the facility and sent an email that included a copy of the renewal reminder letter and the last permit.

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NMED Exhibit 2

Sapphire Algal Biorefinery
February 19, 2024
Page 2 of 3

- To date the Permittee has failed to submit an application for renewal of the groundwater discharge permit to NMED.

The requirements of the Discharge Permit, resultant violation(s) and associated actions necessary to correct the violation(s) are identified below.

Section 20.6.2.3104 NMAC states that no person shall cause or allow wastewater or leachate to discharge so that it may directly or indirectly into ground water unless they are discharging pursuant to a Discharge Permit.

In order to correct this violation, **complete the application for a Discharge Permit (copy enclosed), and submit two completed copies, an electronic copy and a \$100 filing fee to NMED within 30 days from the date of this letter, by March 18, 2024.** Failure to comply with this Notice of Violation may result in NMED's issuance of a compliance order that assesses a civil penalty pursuant to WQA, Section 74-6-10 NMSA 1978. NMED may also assess civil penalties up to \$15,000 per day for each violation of the WQA, Section 74-6-5, NMSA 1978, any regulation promulgated pursuant to that section or any permit issued pursuant to that section. NMED may assess civil penalties up to \$10,000 per day for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. As an alternative to the remedies described above, NMED may commence an action in district court for appropriate relief, including injunctive relief.

Nothing in this letter shall be construed to relieve you of the obligation to comply with all requirements of the Discharge Permit, 20.6.2 NMAC, the WQA, the Dairy Rule, and other applicable federal, state, and local laws, regulations, permits or orders. This letter is intended to obtain voluntary compliance in addressing violations of certain requirements of the Discharge Permit and may not address all violations. It is your responsibility to be familiar with and comply with the Discharge Permit.

Please note that your facility will appear on the NMED's Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, NMED will issue a press release to local media highlighting your facility as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved.

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to sign a Notice of Violation under the New Mexico Water Quality Act to the Chief of the Ground Water Quality Bureau. If you have any questions regarding this matter, please contact Aracely Tellez at 505-629-8864 / Aracely.tellez@env.nm.gov or acs.general@env.nm.gov

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February 19, 2024
Page 3 of 3

Sincerely,

Justin
Ball

Digitally signed
by Justin Ball
Date: 2024.02.19
09:55:19 -07'00'

Justin Ball, Chief
Ground Water Quality Bureau

JDB:JR:at

cc: John Rhoderick, Division Director, Water Protection Division (electronic copy)
Jaben Richards, Manager, ACS (electronic copy)
Michael Kesler, District Manager, NMED III (electronic copy)
ACS Reading File

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NMED Exhibit 2

Exhibit 2

Civil Penalty Calculation

*Administrative Compliance Order
Green Stream Farms – August 2, 2024*

NMED Exhibit 2

FIRST VIOLATION

20.6.1203 and 20.6.2.3104 NMAC – No Discharge Permit

1. Gravity Based Penalty

a. Potential for Harm

The potential for harm is moderate.

With respect to environmental harm, the WQCC Regulations, 20.6.2.3104 NMAC, prohibit any person from causing or allowing effluent or leachate to discharge so that it may move directly or indirectly into groundwater unless the person discharges pursuant to a discharge permit. The discharge of water contaminants without a permit increases the probability that the discharge will not be managed in a manner that is protective of groundwater quality and human health. In this case, the Respondents discharge up to 538,000 gallons per day of wastewater to algae propagation impoundments and evaporative impoundments. The discharged wastewater exceeds water quality standards for total dissolved solids (TDS) chloride, and nitrate-N. With respect to groundwater, discharging wastewater that exceeds water quality standards poses a risk to groundwater quality. The discharge also poses a hazard to public health as the wastewater contains high concentrations of chlorides and nitrogen compounds to move directly or indirectly to groundwater. Because of this, the discharge poses a moderate potential for harm.

With respect to regulatory harm, the discharge permit is the primary regulatory mechanism for protecting groundwater under the WQA. Accordingly, the Respondent's failure to comply with this fundamental requirement poses a major harm to the integrity of the groundwater protection program.

b. Extent of Deviation

The extent of deviation is major. The Department has not been able to issue a Discharge Permit to the applicant because the Respondent has not filed a Discharge Permit application.

c. Gravity Based Penalty Assessed

The discharge of water contaminants without a permit violates a regulation adopted pursuant to the WQA, §74-6-5, and is punishable by a civil penalty not to exceed \$15,000 per day. Using the appropriate gravity-based penalty matrix, this violation is assessed a civil penalty of \$9,000.

d. Multi-Day Penalty

December 30, 2023 to March 25, 2024. Maximum of \$4,500 for 86 days is \$387,000.

2. Adjustment Factors

The Department made an adjustment of 10% upward for the egregiousness of the violation. NMED worked diligently to gain voluntary compliance by notifying the Respondents that a groundwater discharge permit renewal application was due. NMED notified the respondents twice before the current discharge permit expired and once through an NOV after the discharge permit had expired. Additionally, NMED even sent the Respondents copies of the groundwater discharge permit application. However, the Respondents willfully disregarded the requirements set forth by 20.6.2 NMAC and the previous discharge permit and have continued to discharge without a permit which warrants adjustment upward of the fine amount by 10%.

3. Economic Benefit

The economic benefit gained from noncompliance is the amount that the Respondent would have spent in order to comply with the discharge permit requirements, including an avoided costs, such as routine sampling and reporting. The Department did not calculate economic benefit.

4. Total Penalty

Gravity Based Penalty	\$9,000
Multi-Day Penalty	\$387,000
Total Prior to Adjustments	\$396,000
Adjustment Factors (+10%)	\$39,600
Economic Benefit	\$0
Total	\$435,600.00

Exhibit 3

Administrative Compliance Cost Calculation

*Administrative Compliance Order
Green Stream Farms – August 2, 2024*

NMED Exhibit 2

Administrative Compliance Costs Associated with Developing the ACO for DP-1785:

Additional costs were incurred by NMED in the development of the administrative compliance order (ACO). These costs are from personnel hours spent developing the ACO that could have been spent on regular job activities. These personnel costs are 32 hours of Water Resource Professional III time, 15 hours of Water Resources Manager II, 4 hours of Bureau Chief time, and 4 hours of Attorney time. These costs are summarized as follows:

Salaries

WRP III	$\$45.20 \times 32 \text{ hours} = \$1,446.40$
WRM II	$\$60.26 \times 15 \text{ hours} = \$ 903.90$
BC	$\$70.59 \times 04 \text{ hours} = \$ 282.36$
Attorney	$\$48.34 \times 04 \text{ hours} = \$ 193.36$
Total =	\$2826.02

Benefits

$\$2,826.02 \times 39\% = \$1,102.15$
 $\$2,826.02 + \$1,102.15 = \$3,928.17$

Indirect Costs

$\$3,928.17 \times 23.76\% = \933.33

Total

$\$3928.17 + \$933.33 = \$4,861.50$