

DILIGENCE
GLOBAL BUSINESS INTELLIGENCE



INTEGRITY DUE DILIGENCE REVIEW:

BIOFUEL AS, BIOFUEL AFRICA AS
AND BIOFUEL AFRICA LTD

17 DECEMBER 2008

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INTRODUCTION

INTRODUCTION

Diligence International LLC (Diligence) has been commissioned by StatoilHydro ASA's Business Integrity Unit (the Client) to conduct an Integrity Due Diligence Review (Review) of Biofuel AS (BA), Biofuel Africa AS (BAS) and Biofuel Africa Ltd in Ghana (BAG) (jointly the Companies). As part of this Review Diligence has focussed on:

- 01** Profiling the ownership, corporate structure and business reputation of BA, BAS and BAG;
- 02** The Companies' key management and reputation;
- 03** BA and BAS' business practices and BAG's activities in Ghana and its relationship with the local regulatory authorities;
- 04** A reputation risk assessment of the Companies.

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

Diligence's Review has established that Biofuel AS (BA) is an independent Norwegian biofuel company and a parent entity of the Biofuel Group, the umbrella term for a group of companies focused on Jatropha-based biofuel development. The Biofuel Group of companies principally operates in Norway and Ghana. BA has been confirmed as the 100% owner of Biofuel Africa AS (BAS) and Biofuel Africa (Ghana) Ltd (BAG).

Diligence's corporate research identified that BA is owned by Perennial Bioenergy AS (Perennial Bioenergy), its management, and a number of private investors. Perennial Bioenergy is the largest single shareholder with 35.6%. Diligence found that the Board of Directors of Perennial Bioenergy consists of several well-connected individuals such as Trygve Refvem (Refvem) and Torhild Widvey (Widvey) who possess strong commercial ties to Ghana. Reportedly, BA has a propensity to use such close ties for promoting its interests in Ghana (see Section 1.2.1 pp.8-9). Refvem-linked Mwana Africa Plc is considered to be BA's most important local contact along with Fassine Fofana (Fofana).

In addition to Perennial Bioenergy, Finn Byberg (Byberg) is also an influential shareholder in BA through Discovery Channel Invest. A Norwegian national, Byberg co-founded BA in July 2007 and is currently a member of its Board of Directors. Byberg has good contacts to Ghana's political and business establishments, including a good relationship with the son of Kwabena Frimpong-Boateng, a founding member and patron of the ruling New Patriotic Party (NPP), as well as positive relations with the Chairman of NPP and recent Presidential candidate of the Convention People's Party (see Section 1.4 pp.15-16). Diligence has been made aware that Byberg's associates are willing to help him, and the company, with any legal difficulties they may face in Ghana.

Norwegian corporate records list Johan Fredrik Dahle (Dahle) as the CEO of BA. With the exception of Dahle and Byberg, the other members of BA's executive management are not the subjects of negative reporting. Dahle and Byberg were mentioned extensively in press in relation to the issues surrounding BA's land-lease in Northern Ghana.

BA itself has a mixed public profile. Previously media exclusively mentioned the company in relation to its commercial activities in the biofuel sector. However, recently BA's public profile has been tainted

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by the high profile controversies involving its subsidiaries BAS and BAG in Northern Ghana (see Section 1.5.1 pp.21-23). Although BAS and BAG were directly involved in the reported illegal land-seizure, media focused most of its attention on BA. The Biofuel Group through the use of a government-linked lobbyist, identified as Terje Surdal, who is BAS' Ghana Country Manager, and the deception of the local chief allegedly obtained a thumb-printed contract for the land-lease of 38 000 hectares in the Kusawgu region. The local company then went on to deforest 2 600 hectares which it wanted to use for its plantations but local authorities and NGOs managed to partly suspend BA's operations in the region based on the illegality of the contract. Currently BA's local subsidiary does not have a valid licence or the land-lease contract for biofuel development in Ghana though the company intends to obtain them and continues negotiations with local authorities.

BA has a controversial reputation, partly because of the above mentioned scandal and partly because of the company's other questionable tactics in securing its overall interests in Ghana (see Section 1.5.2 pp.23-24). There are strong indications that BA not only actively uses its political and commercial connections in the region to secure its operations – which can be viewed as normal within the local context – but also that it uses the services of Fofana to make legally-questionable payments to the local authorities.

Although Ghanaian litigation records are not publicly available and there are no indications that BA has been involved in any litigation activity, Diligence determined that the Ghanaian regulatory authorities consider BA's operations in the country to be illegal and are considering taking action against the company (see Section 1.6 pp.24-25). As the Ghanaian government currently deregulates the licensing system for the energy sector however, local regulatory authorities currently cannot proceed with action against BA and its local subsidiaries.

BAS is a holding and investment company for BA's biofuel assets in Ghana which the company manages through BAG, BA's local subsidiary. BAS' management consists of Dahle, Arne Helvig (Helvig) and Steinar Kolnes (Kolnes). Terje Surdal, reportedly a government linked lobbyist is BA's Ghana Country Manager. BAS, through BAG, manages a team of 160 people, including 16 Norwegian large scale farmers, in Ghana. BAS and BAG have the same public profiles and reputation as BA mainly because it is widely understood that they are BA's fully owned local subsidiaries. As a result, any litigation or regulatory action targeted at BA will likely be targeted at BAS and BAG as well.

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1.0 BIOFUEL AS

1.1 COMPANY PROFILE

Biofuel AS (BA)¹ is an independent Norwegian biofuel company. The company was founded on 2nd July 2007 and officially registered on 31st July 2007 at Verven 12 C, 4014 Stavanger, Norway.

BA is a parent company in the wider Biofuel Group. The Group specialises in sustainable biofuel production based on Jatropha feedstock cultivated in Ghana. BA currently manages through its local subsidiary the project sites in Ghana of approximately 8,500 acres located in Ghana's Volta region. BA was aiming to expand its operations to 800 000 hectares and its production level to 16 000 – 25 000 barrels per day by 2015 but recently revised the plans downwards.

1.2 OWNERSHIP

Diligence's corporate research identified that BA is owned by Perennial Bioenergy AS (formerly NorFuel AS) (Perennial Bioenergy), the company's management, and a number of private investors, which, altogether, amount to 52 shareholders according to Norwegian corporate records.

Perennial Bioenergy is the largest single shareholder with 35.6% shares in the company. There are 3 shareholders with approximately 10% each and 48 shareholders each owning less than 5% in BA.

Diligence's corporate record research shows that the 3 shareholders with approximately 10% are:

- Discovery Channel Invest – 12.3%;
- Kolcon – 10.8%;
- Helcon Ltd – 9.6%.

¹ Company number: 991 537 201.

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Diligence contacted a source with good knowledge of the company who confirms this shareholding structure.

1.2.1 PERENNIAL BIOENERGY AS

Perennial Bioenergy AS (Perennial Bioenergy)² is a private Norwegian biofuel energy company. It was founded on 9th May 2007 and officially registered on 21st June 2007 at Professor Olav Hanssensvei 7 A, 4021 Stavanger, Norway.

SHAREHOLDER STRUCTURE

Diligence's human intelligence source reports that Perennial Bioenergy is owned by:

- SakorninVest II AS – 29.6%;
- Maharashtra Growth AS – 28.6%;
- Hafslund Venture AS – 21.8%;
- Radiance AS – 14.5%;
- Employees – 3%;
- Management – 2.5%.

BOARD OF DIRECTORS

According to Norwegian corporate records, Perennial Bioenergy's senior management consist of:

- Odd-Even Bustnes (Bustnes): CEO;
- John Peter Hernes (Hernes): Chairman of the Board of Directors;
- Rolf Atle Seloter (Seloter): member of the Board of Directors;
- Trygve Refvem (Refvem): member of the Board of Directors;

² Company number: 991 363 173.



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- Lars Arne Takla (Takla): member of the Board of Directors;
- Torhild Widvey (Widvey): member of the Board of Directors;
- Kristian Tangen (Tangen): member of the Board of Directors;
- Joachim Cock (Cock): member of the Board of Directors.

Corporate record research shows that Perennial Bioenergy's Board of Directors represents the interests of the company's shareholders. Hernes has been Managing Director at SakorninVest Management AS which manages SakorninVest II AS. Cock is a senior investment manager at Hafslund Venture AS. Seloter has been the CEO at Rogaland Vekst, shareholder of NorFuel AS, and Maharashtra Growth AS.

The company's Board of Directors also consists of relatively high profile individuals such as Widvey, former Norwegian Under Secretary of State in the Department of Foreign Affairs and Minister of Oil and Energy, Takla, a former head of Conoco Phillips, and Refvem, former Vice President of Norsk Hydro's agricultural division.

PUBLIC PROFILE

Perennial Bioenergy was founded by NorFuel AS. The company has a neutral public profile; press reports that the company engages in the production of sustainable and low cost biofuels for the industry. In January 2008, Perennial Bioenergy stated that it aims to expand its biofuel operations to Asia and South America. Perennial Bioenergy is in the process of building a greater physical presence in Norway. In October 2008, Perennial Bioenergy signed a mutual cooperation agreement with Australian-based Jatol Ltd with the aim of coordinating their activities in the biofuel sector.

Press research has not identified any negative or derogatory information targeted at Perennial Bioenergy. Neither have Diligence's human intelligence contacts familiar with the entity heard of any negative or derogatory information targeted directly at Perennial Bioenergy.

POLITICAL INFLUENCE IN GHANA

A Diligence source characterises Perennial Bioenergy as an influential shareholder in BA. Its Board of Directors consists of a number of individuals with strong commercial ties to Ghana. The source points out that Refvem, a member of the Board of Directors at Perennial Bioenergy, also sits on the Board of Energy Equity Resources Ltd (EER), an oil and gas company. Another member of the Board of EER is

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Fassine Fofana (Fofana), formerly Guinea's Energy and Natural Resources minister. Diligence's human source intelligence indicates that Fofana is a controversial individual who has a reputation of facilitating bribery for foreign companies in both Guinea and Ghana and described as a close associate of Guido Santullo, also a controversial individual and close friend of Guinea's President Lansana Conte. A number of sources indicate that Fofana represents BA's interests in Ghana (see below).

Recently EER entered into an alliance with London-listed Mwana Africa Plc, a gold mining company, which develops Konongo, Kurofa, Banka and Ahanta concessions in Ghana. Mwana Africa Plc's Chairman is Oliver Baring, a former managing director of UBS Corporate Finance Division's Africa and Mining units, and considered to be very a well-connected individual in Ghana. The CEO of Mwana Africa Plc is Kalaa Katema Mpinga, the son of former Democratic Republic of Congo (DRC) Prime Minister Kasenda Mpinga, who also has close relationships with the business circles in Ghana. Diligence's Ghanaian human intelligence sources believe that Mwana Africa Plc constitutes BA's most important local contact which promotes its interests in Ghana.

Widvey, another member of the Board of Directors of Perennial Bioenergy, equally has business interests in Ghana. She is a director of Aker Drilling ASA (Aker Drilling), a Norwegian service company, which works with Ghana National Petroleum Corporation (GNPC) and several Ghanaian governmental authorities. Aker was recently selected by the Ghanaian authorities as an operator of South Deepwater Tano, an offshore exploration area.

In Diligence's analysis, Perennial Bioenergy's Board of Directors' ties to Ghanaian business and political circles do not represent a cause for concern in itself but rather could be considered as an indication of a well-chosen Board of Directors in line with African business culture based on holding a network of useful contacts. Nevertheless, BA's reported tendency to use such contacts to solve its legal and regulatory problems in Ghana must be taken into account when evaluating the company's integrity and exposure to political risk in the region (see below).



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1.2.2 OTHER SHAREHOLDERS

DISCOVERY CHANNEL INVEST

Discovery Channel Invest³ is registered at Roaldsøyveien 58, 4085 Hundvåg. Corporate documents list the Seychelles based Discovery Channel Invest Inc as the 100% owner of Discovery Channel Invest. Finn Byberg is the CEO of the company and Byberg is also openly considered to be, and referenced as the company's owner.

Discovery Channel Invest has a limited public profile. Research has not identified any negative or derogatory information about the company.

KOLCON

Kolcon⁴ is registered at Sørkolnesveien 78, 4050 Sola. Steinar Kolnes is the CEO. While United Corp. Comp. AS in the Seychelles is the 100% registered owner of the company, research indicates that Kolnes is perceived to be the ultimate beneficial owner of the company (for a more comprehensive profile of Kolnes see Section 2.2).

Kolcon has a very limited public profile. Research has not identified any negative or derogatory information about the company.

HELCON LTD

Helcon Ltd⁵ is registered at Kisteneset 27, 4085 Hundvåg. Arne Helvig is the CEO and is openly referenced as the company's owner while corporate documentation lists Seychelles based Helcon Ltd as the 100% owner of the entity.

³ Company number: 988510270.

⁴ Company number: 986179399.

⁵ Company number: 988707937.



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Similar to Discovery Channel and Kolcon, Helcon Ltd has a limited public profile and research has not identified any negative or derogatory information about the company.

Diligence carried out a review of approximately 300 records comprising official anti-money laundering lists, international sanctions, debarment lists, and prohibitive lists. Neither Perennial Bioenergy, Discovery Channel Invest, Kolcon, Helcon Ltd nor any of the management individuals listed above featured on any of the latter-mentioned lists.

1.3 HISTORY & CORPORATE STRUCTURE

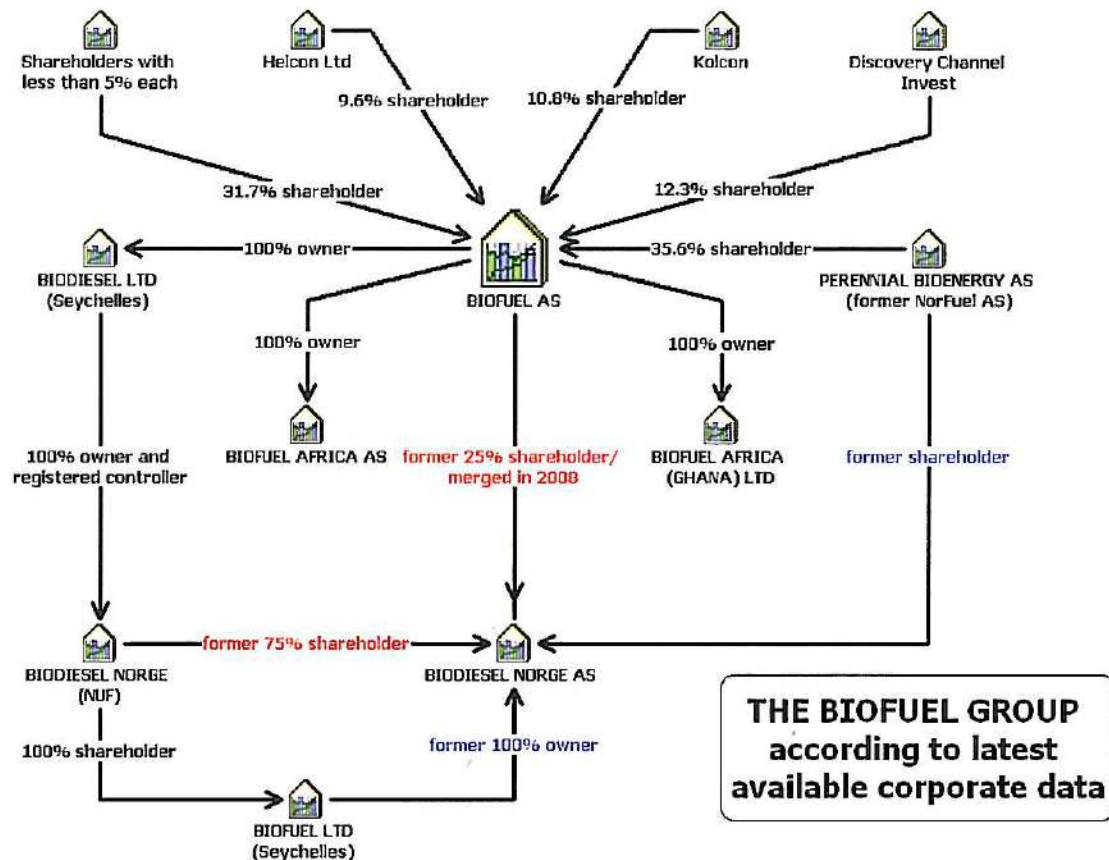
BA was founded by Byberg, Helvig and Kolnes (see section 1.2) on 2nd July 2007 with the aim of developing biofuels in Ghana. Corporate record research shows that BA is the parent entity of the Biofuel Group (see chart below). BA owns 100% of Biofuel Africa AS and Biofuel Africa Limited [Ghana].

The Biofuel Group is the overarching name applied to a group of companies working for the production of environmental friendly biofuel from the Jatropha plant. The older entities in the group date back to 2005 and 2006. The Biofuel Group entities consist of a variety of on and offshore vehicles which hold cross shareholdings in each other in a relatively complex fashion.

Diligence's corporate research indicates that BA continues to restructure and optimise the corporate structure of the Biofuel Group. This is principally the case because 2007 was a start up year for BA during which it primarily focused on its operations and as a consequence it had not optimised internal controls nor established internal routines. As a result, BA filed its 30/06/08 accounts late.

According to BA's accounts, during the first half of 2008 BA decided to improve the internal corporate structure and invite more experienced individuals to the Board of Directors. The company's Board of Directors set a re-organisation plan for the company according to which the restructuring of the group entities took place. BA will require funding until revenue starts coming in from African based projects and according to its 2007 reports was mainly funded through a loan from Perennial Bioenergy.

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BIODIESEL NORGE

The oldest entity in the Biofuel Group is Biodiesel Norge. The company was registered as a Norwegian registered foreign entity ('norskregistrert utenlandsk foretak' or NUF) on 26th April 2005 at Verven 12 C in Stavanger, Norway. Biodiesel Norge is listed as a company involved in the purchase, sale and refining of plant oil for use in the biofuel sector. The CEO of Biodiesel Norge is Kolnes (see above) while the entity has no registered employees.

Biodiesel Norge's 2007 Annual accounts, dated September 2008, show that it is 100% owned by Biodiesel Ltd of the Seychelles and that Biodiesel Norge has shareholdings in Biodiesel Norge AS [75%] and Biofuel Ltd of the Seychelles [Biofuel Ltd] [25%].

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BIODIESEL NORGE AS

Biodiesel Norge AS was founded in May 2006 and officially registered on 12th June 2006 at Verven 12, Ingang Sjøsiden 1etg, Norway. The company is involved in the production, purchase and sale of biofuel. Its CEO is Kolnes and the Board of the Directors of the company comprises of Byberg, Bustnes, Stian Vemmestad and Helvig.

According to the company's 2007 report, shareholders of the company were listed as Biodiesel Ltd (75%) through its 100% ownership of Biodiesel Norge and Biofuel AS (25%). Biodiesel Ltd is in turn owned 100% by Biofuel AS. While at the start of 2007 Biodiesel Norge AS was 100% owned by Biofuel Ltd its ownership structure changed during the year. Norfuel AS, which has subsequently become Perennial Bioenergy, became a shareholder during 2007. As part of establishing the Biofuel Group, Biofuel AS was established as parent entity of the group during 2007. For this purpose the shareholders of Perennial Bioenergy AS swapped their shareholdings in Biodiesel Norge AS for shares in Biofuel AS as did the shareholders of Biofuel Ltd. During 2008 Biodiesel Norge AS was merged into Biofuel AS.

1.4 MANAGEMENT

International and Norwegian corporate records list the following individuals as BA's senior managers:

- Chairman of the Board of Directors: Jan Reinas;
- Member of the Board of Directors: Finn Byberg;
- Member of the Board of Directors: Arne Helvig;
- Member of the Board of Directors: Stian Vemmestad;
- Member of the Board of Directors: Odd-Even Bustnes;
- The CEO: Johan Fredrik Dahle.

BA's management have a generally neutral public profile. Diligence's research shows that, with the exception of Johan Fredrik Dahle (Dahle) and Byberg who were mentioned in relation to the land-seizure controversy in Northern Ghana (see below), media mentions BA's managers predominantly in relation to their commercial activities at BA and their other companies. Apart from Dahle and Byberg,

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press research has not identified any negative or derogatory information targeted at BA's management.

JAN REINAS

Jan Reinas (Reinas) was born on 29th July 1944. Reinas is a Norwegian citizen. According to international and UK corporate records, Reinas' registered address is Skogsvingen 3, 1324 Lysaker, Oslo, Norway.

Diligence's corporate research indicates that Reinas is the Chairman of the Board of Directors at BA. International, UK and Swiss corporate records and Norwegian public databases list Reinas as a director or former director in the following companies:

- Chairman of the Board of Directors of Bio Energy AS;
- Chairman of the Board of Directors of Ilma Eiendom AS;
- Owner and Managing Director of Jan Reinas Consulting;
- Owner and director of Reinaas Holding AS;
- Deputy Chief Executive Office of Xenex Norge AS;
- Chairman of Norsk Hydro ASA;
- Chairman and CEO of Hydro Agri Venezuela CA;
- CEO of Norsk Skog;
- CEO of Norsk Skog (UK) Limited;
- Member of the Board of Directors of Swiss International Airlines;
- Member of the Board of Directors of Schibsted ASA;
- President and CEO of Scandinavian Airlines.

Reinas has a relatively well-known and neutral public profile as to be expected due to some of the high profile positions he has held (see list above). International press refers extensively to Reinas in relation to his commercial activities at the above mentioned companies. In August 2006, Reinas, as the Chairman of Norsk Hydro ASA, met Norway's Crown Prince Haakon at the Offshore Northern Seas conference and exhibition in Stavanger where he reported on the progress being made on the Ormen Lange field development project. In 2007, Reinas together with Jannik Lindbaek, Chairman of Statoil, worked on the merger of the Norsk Hydro ASA and Statoil into StatoilHydro. Open source research reveals that Reinas was voted the Executive of the Year in Norway in 2001.

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Diligence's press research has not identified any negative or derogatory information targeted at Reinas. Diligence's human intelligence sources have not heard of any negative or critical information about him.

Diligence's human intelligence sources characterise Reinas as an independent and resolute individual who is also known as a harsh critic. Reinas reportedly resigned from Norsk Hydro ASA (Norsk Hydro) because of a dispute with the Norwegian government over the executive pay which the government wanted to limit for the senior management in the company. According to Norwegian press, Reinas also criticised Karl Eirik Schjøtt-Pedersen, Norway's Finance Minister, over the government's excessive involvement in Norsk Hydro and failure to focus the country's research and development programmes to the needs of the sector.

FINN BYBERG

Finn Byberg was born on 15th February 1961 and is a Norwegian national. According to international and UK corporate records, Byberg is registered at Roaldsoyveien 58 4085 Stavanger, Norway.

Byberg is a member of the Board of Directors of BA. According to international and UK corporate records and Norwegian public databases, Byberg also holds or held directorships in the following companies:

- Chairman of the Board of Directors at Biodiesel Norge AS;
- CEO at Discovery Channel Invest;
- Director at Biodiesel Holding Ltd;
- Director at Iptel;
- Director at Powercom AS Norsk Avdeling

According to Norwegian press, Byberg has a close and historical business relationship with Kolnes outside the biofuels sector as both of these individuals have experience working in the telecommunications sector. Byberg worked as a technician at Televerket and later joined Kolnes at Iptel, a communications company with operations in Brazil and Indonesia. Press reports that Iptel created a call centre for Ghana-based Anglo Gold Ashanti, a gold mining company, which has also cooperated in the cultivation of Jatropha feedstock for biofuel production with BA.

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Media sites that Byberg and Kolnes have significant experience in assisting Norwegian individuals and companies to set up firms in the Seychelles, an offshore centre in the Indian Ocean. This in turn partly explains why BA's structure involves the Seychelles-based companies. International press highlights that Byberg has been one of the central figures in the land-seizure issues involving BA in Ghana (see below).

Diligence's human intelligence contacts indicate that Byberg has good connections in Ghana. Among his contacts is Jojo Frimpong-Boateng who is believed to be the son of Kwabena Frimpong-Boateng, a founding member and patron of the New Patriotic Party (NPP), the incumbent ruling party. Byberg is also believed to be connected to Paa Kwesi Nduom, a candidate for the Convention People's Party in the current Ghanaian elections. Diligence's local sources indicate that Byberg, through his association with Jojo Frimpong-Boateng, has been trying to build relationships with the various political interests in Ghana in order to promote BA's interests in the country and mitigate any potential political risks for the company associated with the recently held elections in Ghana (see Appendix 2).

A Diligence contact with access to the Chairman of NPP stated that the latter explained that: *"Finn Byberg has a lot of good friends in our party. We believe that Ghana should say 'welcome' to the Norwegian investments because he (has) already shown us that he's a good friend of our people."* The NPP source posited that *"I know that there are rumours about bribes that he paid to some politician, but this is not true. Finn Byberg is officially (supporting) the NPP – also financially – but not (a) single person."* *We have an election to win in the next weeks and it's going to be important also for Norway:* Despite disputing claims of bribery, the NPP source did say that *"actually Biofuel acts in a more or less illegal situation. If Mr. Byberg would help us to win this election we will show him how much gratitude we can have. Always respecting the law, of course"*.

Taking into account Byberg's close connections to a number of influential figures in Ghanaian political and economic circles, Diligence recommends the Client to consider the potential political and reputational risks associated with Byberg and implications for BA's operations in the country. This is particularly pertinent given the potential for a change in government in the near future.

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ARNE HELVIG

Arne Helvig was born 13th March 1973 and is a Norwegian citizen. According to international and UK corporate records and Norwegian public databases, Helvig is registered at Kisteneset 27, Hundvaag, 4085, Norway.

Helvig is a member of the Board of Directors of BA. According to international and UK corporate records together with Norwegian public databases, Helvig also holds or held directorships in the following companies:

- Member of the Board of Directors of Biodiesel Norge AS;
- Member of the Board of Directors of BAS;
- Member of the Board of Directors of Biodiesel Holding Ltd;
- The CEO of Helcon Ltd.

Helvig has an overall neutral public profile. Research shows that the media characterises him as one of the co-founders of Biodiesel Norge and BA. Norwegian press briefly reports that Helvig is a close associate of Byberg and Kolnes with whom he helped incorporate Seychelles-based companies for Norwegian citizens. Despite Helvig's directorships in BA and BAS, press only briefly mentions his positions in these companies during the land-lease controversy (see below).

Press research has not identified any substantial negative information targeted at Helvig. Diligence's local human intelligence sources have not encountered negative information in relation to him.

STIAN VEMMESTAD

Stian Vemmestad (Vemmestad) was born in 1971 and is also Norwegian. According to international and Norwegian corporate records, Vemmestad is registered at Hottavikhagen 12, 4048 Hafstrfjord, Norway.

Corporate research reveals that Vemmestad is a member of the Board of Directors of BA. Diligence's human intelligence, international corporate record research and Norwegian public databases list Vemmestad as a director or former director in the following companies:

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- Member of the Board of Directors of BAG;
- Managing Director of SakorninVest II AS;
- President of Aker Stord AS;
- Chief Financial Officer of Saga Oil ASA;
- Finance Director of Allianse ASA;
- Director of Stian Vemmestad Consulting.

Vemmestad has a limited public profile. Media mentions Vemmestad predominantly in relation to his commercial activity at the above mentioned companies. Press research has not identified any negative or derogatory information targeted at Vemmestad. Diligence's Ghanaian sources have not heard any negative or critical information relating to Vemmestad.

ODD-EVEN BUSTNES

Odd-Even Bustnes was born on 17th November 1969 and also holds Norwegian nationality. According to Norwegian public databases, Bustnes is registered at Jåttåvågveien 7 4020 Stavanger, Norway.

Bustnes is a member of the Board of Directors of BA. International corporate records and Norwegian public databases indicate that Bustnes holds or held the following positions:

- CEO of Perennial Bioenergy;
- Director of Biodiesel Norge;
- Director of SakorninVest Management AS;
- Chairman of the Board of Directors of Gallesio Partners AS;
- Chairman of the Board: Yerupaja Invest AS;
- Director of Fitzroy Invest AS;
- Consultant with Resource Advisors LLC;
- Consultant with Rocky Mountain Institute;
- Associate Consultant with McKinsey & Company;
- Financial analyst with Union Bank of Norway;
- Programme Analyst with United Nations Children's Fund.

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Research shows that Bustnes graduated with a BA in Engineering from Dartmouth College in 1994, Master of Public Administration, Economics from Princeton University, Woodrow Wilson School in 1999 and M.Sc. in Chemical Engineering from Oxford University in 2002. Between 1989 and 1990, Bustnes served as a special operations paratrooper in the Norwegian Armed Forces.

Bustnes has a neutral public profile. International open source and press mentions Bustnes mainly in relation to his commercial activities in the above mentioned companies although open source also highlights that Bustnes competed in the 1996 Olympic Games as a member of the Norwegian rowing team.

Open source research reveals that Bustnes was involved as author and co-author in a number of publications such as *Winning the Oil Endgame: Innovation for Profits, Jobs, and Security*, 2004. Bustnes regularly donates to the Dartmouth College Fund Hanover.

Press research has not identified any negative or derogatory information targeted at Bustnes. None of the sources contacted by Diligence during the course of this Review have heard of negative or disparaging information targeted against him.

JOHAN FREDRIK DAHLE

Johan Fredrik Dahle was born in 1964 and is a Norwegian national. According to Norwegian public databases, Dahle is registered at Stokkabrautene 101 E, 4023 Stavanger, Norway.

Corporate research shows that Dahle is the CEO of BA. International corporate records and Norwegian public databases list Dahle as a director or former director at the following companies:

- Chairman of the Board of Directors and the CEO of BAS;
- Chief Operational Officer and Chief Financial Officer of Perennial Bioenergy;
- CEO of Icefresh AS;
- CEO of Maritech Group;
- Chairman of the Board of Directors and CEO at Limestone AS;
- Chairman of the Board of Directors at Kari Halvorsen AS;
- Director of Norwegian Lobster Farm AS;
- Director of Umoe Alu Services AS;

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- Director of Stavanger Tennisklubb;
- CEO and Chief Financial Officer of EWOS AS;
- Director of Norsk Hydro, Agri-business unit.

Research shows that Dahle graduated with a M.Sc. in Economics from the Norwegian School of Economics and Business Administration. He also served as a Sergeant in the Military Police of the Norwegian Armed Forces.

Dahle has a mixed public profile. International open source previously mentioned Dahle primarily in relation to his commercial activities at the above mentioned companies. However, Dahle's profile was recently substantially undermined by press referring to him as one of the central figures in the land-seizure controversies involving BA in Ghana (see below). Press research has not identified any further negative or derogatory information targeted at Dahle. Diligence's human intelligence sources confirmed Dahle's involvement in the land-lease scandal but have not identified any additional negative information about him.

1.5 PUBLIC PROFILE & REPUTATION

BA has a mixed public profile. Media characterises the company as an independent small-medium size biofuel specialist with operations in Ghana. Press mentions BA mainly in relation to its commercial activity in the biofuel sector although the company's public profile was also recently shaped by the high profile controversies regarding the involvement of its local subsidiaries in the disputed land seizure in Northern Ghana (see below).

International press reports that BA focuses on sustainable biofuel production of *Jatropha curcas* crude oil in low cost tropical areas of Ghana. *Jatropha* feedstock is native to the country and represents a financially viable material for biofuel (see Appendix 1). The company was amongst the first 'pioneers' to specialise in upstream biofuel production in Ghana. A source at Ghana's

BIOFUEL AS

Environmental Protection Agency describes BA as currently one of the major foreign biofuel developers in Ghana.

Press highlights that BA has a cooperation agreement with the Ghana Chamber of Mines⁶, a voluntary private sector association of mining companies in Ghana. This cooperation was already established by Biodiesel Norge AS before the establishment of BA through the former's extensive contacts with the Chamber to whom it presented its plans for biofuel development in the country in January 2006. This led to a subsequent agreement between Biodiesel Norge AS and the Ghana Chamber of Mines to develop a common biofuel policy for the region in February 2006.

In October 2007, BA with the assistance of First Securities (Norway) conducted a private placement of equity to raise NOK 22.7 million [USD 4.2 million] which the company planned to invest into the acquisition and cultivation of 20 000 hectares of arable land for its biofuel projects in Ghana. According to industry press, BA also secured a letter of intent for 288 000 hectares to develop *Jatropha* feedstock plantations.

International open source research shows that BA featured in The Global Exchange for social Investment (Gexsi)'s *Global Market Study Project Inventory: Africa* report in 8th May 2008 and World Bioenergy Association's *World Bioenergy 2008* report.

1.5.1 THE LAND-SEIZURE CONTROVERSY

BA's public profile has been substantially shaped by its involvement in a legally-questionable land seizure in Kusawgu, in the Northern Region of Ghana. Although it actually directly involved BA's subsidiaries, BAS and BAG, they were only briefly mentioned by both international and local press which instead focused most of their attention on BA.

⁶ The Ghana Chamber of Mines represents the interests of approximately 90% of the mining companies in the country. Its members include AngloGold Ashanti, Newmont Ghana, GoldField's Ghana, Ghana Bauxite and Ghana Manganese.

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Media began highlighting this issue after Bakari Nyari (Nyari), Vice Chairman of the Regional Advisory and Information Network Systems (RAINS) and member of the Ghana and Africa Biodiversity Network Steering Committee, published *Biofuels Land Grabbing – Ghana*, a highly critical report of BA's attempts to secure 38 000 hectares of local land for its biofuel plantations in January 2008. BA allegedly, through the use of the government-linked lobbyist, Terje Surdal (see below) and the alleged deception of Kusawgu Wura Sulemana Jakpa Tuntumba I, a local community chief, gained access to the community's land where it deforested 2600 hectares intended for its biofuel plantations.

One of the main contentious issues in the controversy was the land-lease contract between BA and the local community leaders. BA and its senior managers, Dahle and Byberg, were accused of using an illegitimate contract which was not signed but rather thumb-printed by Kusawgu Wura Sulemana Jakpa Tuntumba I as a result of his illiteracy. Furthermore, Dahle and Byberg discussed this contract with individuals affiliated with the local chief rather than the chief himself, which further undermined the legitimacy of the agreement. According to multiple sources in the Ghanaian political and regulatory authorities, this contract is considered as being inadequate and most importantly illegal regarding BA's operations in the region.

Norwegian publications report that Nyari, despite publishing the critical report, had not dismissed the idea of biofuel plantation in the region altogether. His main opposition to BA's biofuel development in Kusawgu was based on the illegitimacy of the existing land-lease contract and the terms of this land-lease arrangement. Instead of the 38 000 hectares rented for USD 2.4 per hectare per year by the company, Nyari has proposed to lease BA only 2 600 hectares for 30 years at USD 4.8 per hectare per year, rationalising this by the strategic location of the land and the needs of the local community. BA has indicated that it will consider the new terms but has not yet accepted this proposal. Despite this, political party sources told Diligence that BA's reputation is now one of a company that considers employing illegal measures to operate in the country.

RAINS, in corroboration with the Central Gonja District Assembly and Ghana's Environmental Protection Agency, managed to partly suspend BA's operations in Kusawgu. While BA acknowledged that it failed to take into account the interests of the local community and the complex land ownership system in the region and thus may have broken the law, the company intends to renegotiate the contract and continue its biofuel development projects in Ghana. A Diligence source in the National Petroleum Authority (NPA), a regulatory authority for the petroleum downstream sector, highlighted

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that BA currently does not have permission or the license to operate in the region and it is in a difficult legal position and a possible target for regulatory authorities (see below).

The Chief of the Legal Division at the NPA expressed the opinion that BA is trying to continue its operations while waiting for energy sector deregulations which will allow the company to reach arrangement with NPA's leaders. He states that *"Their strategy is to try to let us lose time in boring negotiations and wait for the day in which they can buy a real license"*.

1.5.2 BRIBERY ALLEGATIONS AND USE OF POLITICAL CONNECTIONS

Research identified that BA has a controversial reputation in Ghana. Although the scandal around BA's land acquisition in Kusawgu could have been partly the result of failed negotiations and the company's ignorance of local land ownership, multiple local sources also point to BA's questionable tactics in not only securing the above mentioned contract but also its overall interests in the region.

Source intelligence indicates that BA has a propensity to utilise the above mentioned Perennial Bioenergy and Byberg's connections in the country to secure its operations there. Reportedly, Perennial Bioenergy-linked Mwana Africa Plc (see above) actively promotes BA's interests in Ghana. According to the Chairman of the NPP, the party will also consider assisting BA in solving its legal problems due to Byberg's support of the party.

Moreover, a source close to the company reports that BA uses Fofana (see above) in order to maintain confidential contacts to local government and, more importantly, allegedly bribe officials. According to this source, BA was not sure whether it could start a project in the area and invited Fofana to assist them in obtaining the relevant permission. Fofana brought BA's representatives to the government official who was responsible for deregulation of licenses in the area. The official assured BA's representatives that for a certain sum, the company would gain the license. BA's representatives allegedly agreed and paid the sum, in an envelope, 10% of which was given to Fofana. A source at the National Petroleum Authority confirmed this rumour and that Fofana represented BA.

Diligence discreetly obtained intelligence from the Chief Executive of the NPA who stated the company managed to continue its operations despite the lack of the proper land-lease arrangements and license because it bribed several members of the local authorities in the area of operations. He points

BIOFUEL AS

out that BA *"uses the security guards to intimidate some of our managers in that region"* while also using representatives like Fofana who *"always brings beautiful gifts and most of all cash to the politicians he meets"*.

Ghanaian political officials acknowledge that there are rumours of BA making illegal payments to solve their legal and regulatory problems. In Diligence's view, this poses a reputational risk for companies associated with BA's activities in the country.

1.6 LITIGATION, REGULATORY & LAW ENFORCEMENT INTEREST

Diligence's human source intelligence indicates that BA has a difficult legal position in Ghana. Sources assert that BA does not have a valid license for biofuel development in the country nor a legal land-lease contract for biofuel plantations in Northern Ghana (see Section 1.5.1).

The Chief Executive of the NPA states that BA *"usurps a large territory"* without a proper contract. He goes on to say that *"The State of Ghana never gave any contract or exploration license to Biofuel. Never. The problem is that Biofuel bribed several members of local authorities around the concession and they let them live and work despite of the fact that they are illegal there"*. He indicated that *"In summer we started a [procedure] to obligate them to leave the country"* and *"Biofuel is completely illegal here and sooner or later they will be obligated to go"*.

The Chief of the Legal Division at NPA confirmed this information. According to him, BA acts against the law and claims that *"Normally we should go there with the Army and kick them all out of the country"*.

Diligence's human intelligence contacts indicate that while current deregulation reforms might mitigate any potential regulatory action against BA and its subsidiaries in Ghana in the short-term, there is still a risk that unless the company manages to obtain the valid license and the land-lease arrangements for its biofuel development operations, it could be forced out of the country. In one contact's opinion, BA might have to pay a large fine in order to continue its operations in Ghana.

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Ghanaian litigation records could not provide any information regarding BA's litigation activity in Ghana as they are not publicly available. A contact in Ghana's Environmental Protection Agency states that BA does not have environmental issues with the body.

Diligence carried out a review of approximately 300 records comprising official anti-money laundering lists, international sanctions, debarment lists, and prohibitive lists. Neither BA nor any of its management featured on any of the latter-mentioned lists.

BIOFUEL AFRICA AS & BIOFUEL AFRICA LTD

2.0 BIOFUEL AFRICA AS & BIOFUEL AFRICA LTD

2.1 COMPANIES PROFILE

BIOFUEL AFRICA AS

Biofuel Africa AS (BAS)⁷ is a 100% subsidiary of BA. BAS was founded on 21st April 2008 and registered at Verven 12 C, 4014 Stavanger, Norway. Norwegian corporate records list BAS as a holding and investment company for biofuel development assets. Research shows that BA established BAS as a special purpose vehicle with a focus on biofuel development operations in Ghana. The company operates in Ghana through BAG, BA's local subsidiary which is legally required to operate in Ghana.

BIOFUEL AFRICA LTD GHANA

Diligence's local human intelligence contacts obtained Ghanaian corporate records which show that Biofuel Africa Ltd (BAG) is registered at 3rd FL. Teachers' Hall Complex, 4 Barnes Close, Education Loop, Adabraka, Accra, Ghana. According to corporate records, BAG is 100% owned by BA. The company leases land and manages BA operations in Ghana. Dahle is listed as BAG's director.

2.2 MANAGEMENT

A source in the Ghanaian Environmental Protection Agency describes BAG management as a mixture of Norwegian and Ghanaian managers although senior positions are occupied by Norwegian citizens. According to BA's company information, BAS has a team of 160 people, including 16 Norwegian, large-scale farmers, working in Ghana-based BAG.

Norwegian corporate records show that BAS' senior management consists of:

- The Chairman of the Board of Directors and the CEO: Dahle (see Section 1.4);
 - Member of the Board of Directors: Helvig (see Section 1.4);
-

⁷ Company number: 992 636 351.

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- Member of the Board of Directors: Kolnes.

BAS' management has an overall neutral profile. International and local press mentions the management predominantly in relation to BAS' commercial activities in the biofuel sector although their profile was also recently undermined by the above mentioned land-lease scandal.

STEINAR KOLNES

Steinar Kolnes was born on 16th February 1965 and is a Norwegian citizen. According to international corporate records and Norwegian public databases, Kolnes is registered at Soerkolnesvien 78, Sola, 4050, Norway.

Apart from Kolnes' positions as member of the Board of BAS, international, UK and Ghanaian corporate records list Kolnes as a director in the following companies:

- The CEO of Biodiesel Norge;
- Director of Comuniq AS;
- Director of Biodiesel Holding Ltd;
- Director of Iptel;
- The CEO of Kolcon.

Kolnes has a generally neutral public profile. International media characterises Kolnes as a co-founder of Biodiesel Norge and BA. Press mentions Kolnes mainly in relation to his commercial activities at BAS and the above mentioned companies.

According to press, Kolnes has experience in the biofuel sector, having worked as the CEO at Biodiesel Norge. In 2006, Kolnes represented Biodiesel Norge at the negotiations with the Ghanaian Chamber of Mines, which led to the mutual cooperation agreement between them. In July 2007, Kolnes proposed an environmental certification system for biofuels which would help to inform consumers of which biofuels are produced in the most sustainable way.

Apart from Kolnes' commercial activities at Biodiesel Norge and BAS, press also highlights that Kolnes has experience in the telecommunications sector. As was previously mentioned in respect to Byberg [see above], Kolnes founded Iptel, a communications company with ties to Ghana-based Anglo

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Gold Ashanti. Prior to the establishment of Iptel, Kolnes was also engaged with 1888 Nummeropplysning AS which collapsed in 2003 following a conflict relating to the purchase of database information from Telenor.

Press describes Kolnes as a close associate of Byberg with whom he was involved in assisting Norwegian individuals and businesses in setting up companies in the Seychelles. Apart from a few articles referencing Kolnes in relation to the 1888 insolvency, press research has not identified any negative or derogatory information targeted at Kolnes. None of the sources contacted by Diligence during the course of this Review had heard of any negative information about Kolnes.

TERJE SURDAL

Further research shows that Terje Surdal (Surdal) works as Ghana Country Manager for the Biofuel Group. According to BA's corporate information, Surdal has the following background:

- Planning, Logistics and Supply Chain manager at Peterson AS;
- UN Peace Keeping (two tours) responsible for logistics in former Yugoslavia and second in command in Bosnia & Herzegovina;
- Project leader for Norsk Folkehjelp;
- Norwegian Army Military Academy.

Surdal has a limited public profile. Press research has not identified any negative or derogatory information targeted at Surdal.

However, Diligence's local intelligence sources consider Surdal to be the government-linked lobbyist, mentioned in the land-lease scandal involving BA in Northern Ghana (see above).

2.3 PUBLIC PROFILE & REPUTATION

BAS/BAG has a mixed public profile. Previously international media exclusively concentrated on BAS/BAG's commercial operations in the biofuel sector in Ghana. However, recently media has focused predominantly on BAG/BAS' role in the above mentioned illegal land acquisition in Northern Ghana.

BIOFUEL AFRICA AS & BIOFUEL AFRICA LTD

Diligence's human intelligence reports that BAS and BAG's reputation is linked to that of BA because locally they are known to be BA's wholly owned subsidiaries.

2.4 LITIGATION, REGULATORY & LAW ENFORCEMENT INTEREST

Source intelligence shows that BAS and BAG have the same legal problems as BA. Taking into account that these entities are wholly-owned subsidiaries of BA, any legal or regulatory actions targeted at BA will be also likely affect these subsidiaries.

Diligence's contact in Ghana's Protection Environmental Agency points out that neither BAS nor BAG have been the target of environmental concerns.

Diligence carried out a review of approximately 300 records comprising official anti-money laundering lists, international sanctions, debarment lists, and prohibitive lists. Neither BAS, BAG or any of their management individuals featured on any of the latter-mentioned lists.

CONCLUSION & RECOMMENDATIONS

CONCLUSION & RECOMMENDATIONS

While the Biofuel Group's corporate structure is relatively complex due to cross-shareholdings and the presence of offshore entities, there are no indications that this structure is intended to hide assets, as exemplified by the Group's current consolidation around onshore entities and the relatively transparent ownership of BA.

Norwegian individuals associated with the Biofuel Group's senior management render the Group well connected within Ghana's political and business circles. It should be noted that BA's links are primarily with the NPP whose candidate is currently campaigning in the country's Presidential election the results of which have the potential to shift the balance of power against Byberg and his company. However, the company's alleged use of Fofana's services to make legally-questionable payments to local government officials in order to obtain the relevant permission for its operations in the country constitutes a more significant political and reputational risk to the Client.

The other major source of concern is BA's lack of a valid license and the land-lease contract for biofuel development in Ghana along with the possible consequences of regulatory action. Diligence's sources assert that BA may be obligated to pay a large fine to solve these problems.

Diligence recommends the Client to take into account the above mentioned risks associated with BA and its local subsidiaries' operations in Ghana. Diligence would also recommend the Client to inquire with the company's management about the nature of BA's relationship with Fofana and the situation regarding their regulatory problems in Ghana. In order to mitigate the above mentioned risks Diligence recommends that the Client considers the following actions;

- Request documentary clarification from BA regarding the current status of the land-lease contracts
- Engage an objective transparency monitoring NGO to assess the status of the contract
- Request clarification from BA regarding its use of local facilitators and introducers so as to clarify future parameters for the usage thereof within a legally acceptable framework

APPENDICES

APPENDICES

APPENDIX 1: ASSESSMENT OF BA'S LOCAL FACILITATORS

Diligence identified that BA uses the services of Fassine Fofana (Fofana) and Terje Surdal (Surdal) to promote its overall interests in Ghana.

Surdal, BA's Ghana Country Manager, was mentioned in Nayari's report regarding BA's involvement in the land-lease scandal. Although sources consider Surdal to be the person who best fits the description of a lobbyist for BA during the land-lease scandal, there are no further indications that he has a reputation of facilitator. Press research also has not identified any information suggesting that Surdal normally engages in lobbying activity.

In contrast, Diligence's sources characterize Fofana as a controversial individual with a reputation of facilitating the interests of foreign companies in the Western Africa. A former minister of Guinea's Energy and Natural Resources and described as a disliked individual, Fofana has good contacts in Guinea and Ghana. Fofana was responsible for the establishment and promotion of London-based African Energy Equity Resources Ltd (AEER), a company owned by Equatorial-Guinea President Mbasogo and the Obi of Onitsha group. Sources comment that Fofana maintains close contacts to Guido Santullo, a close friend of Guinea's President Lansana Conte and Andres Maximino Santullo who was accused of associations with controversial offshore companies and links to organized crime. Fofana and Guido Santullo represented a number of major multinational companies in Guinea. Fofana was also known to represent an international diamond company in Sierra Leone.

APPENDIX 2: GHANA BIOFUEL SECTOR

Diligence's research indicates that Ghana constitutes one of the main regions for biofuel production in Western Africa. According to biofuel-focused open source and press, the country has a favourable climate for *Jatropha*, a raw material for biofuel, which naturally grows in the region – that is, without being cultivated. GEXSI's *Global Market Study Project Inventory: Africa*, May 2008, indicates that Ghana's southern areas and its coast has especially favourable conditions for biofuel plantations but more space is available for *Jatropha* cultivation in the northern semi-arid regions of the country.

APPENDICES

According to Ghanaian biofuel sector studies, the government favours biofuel development and currently proposes biofuel legislation which would make mandatory the blending of traditional diesel with biodiesel for vehicles. In order to further promote the biofuel sector, the government encourages foreign investment into the sector through tax incentives. In 1997, the government set up the Energy Commission and the Energy Foundation to regulate, manage and develop energy resources and assist the country's biofuel sector. In March 2007, Ghana hosted a United Nations Conference on Trade and Development (UNCTAD)-led international workshop on the development of biofuels industry in Western Africa with the Ghanaian government providing USD 1.6 million fund to support *Jatropha* plantations in the country.

However, despite these substantial developments in Ghana's biofuel sector, Diligence's contact in the Executive Director Office of Ghanaian Environmental Protection Agency states that the country remains a developing biofuel market with few active companies. Apart from the provision of economic incentives, the government lacks a comprehensive policy framework to support the biofuel sector.

Diligence's human intelligence contacts report that the Ghanaian government is currently engaged in license deregulation in the energy sector with the aim of making the system more efficient. A number of sources in local regulatory authorities indicated that this deregulation could also make it easier for foreign companies to obtain relevant licenses through questionable payments.

APPENDIX 3: GHANAIAN POLITICAL CONTEXT

Ghana is a presidential representative democratic republic with a multi-party system. On 6th December 2008, the country held its 5th consecutive elections since the multi-party system was introduced in 1992.

The two main contestants in this election were Nana Akufo-Addo (Akufo-Addo)'s NPP, an incumbent ruling party, and John Atta Mills (Mills)'s National Democratic Congress (NDC). John Agyekum of NPP, the current President of the country, cannot run again as he has already served two terms. According to international press, Akufo-Addo who enjoys the support of NPP's traditional heartland of Ashanti and the Eastern regions ran together with Mahamudu Bawumia (Bawumia), a former deputy governor

APPENDICES

at the Bank of Ghana, who enjoys Muslim support in Northern Ghana. Both of them are advocates of current policies with a strong emphasis on the development of the private sector.

NPP's main opponent is Mill's NDC. Mills (also known as the King of Peace) is running for the presidency for the third time. He is a former vice-president and law professor at the University of Legon. Mill's running mate is John Mahama, the former Communications Minister. NDC traditionally enjoys the support of the Western regions of the country.

This Review was written when results of ongoing elections had not been decided. According to latest press, Ghana's presidential elections will be decided on the 28th December run-off between Akufo-Addo and Mills. Press reports that so far with votes counted from all but one of Ghana's 230 constituencies, Akufo-Addo had obtained 49.13% and Mills 47.92% with an overall turnout of 69.52%.

Diligence's research shows that the current Ghanaian elections can potentially influence BA's position in the country although such influence should not be critical within a broader context of the Company's political and commercial ties in Ghana.

As was previously mentioned in the Review, source intelligence reports that Byberg has good contacts in Ghana's political and business establishments and with members of both the New Patriotic Party (NPP), the ruling party, and the Convention People's Party (CPP).

Source intelligence notes that Byberg has lesser ties to John Atta Mills' National Democratic Congress (NDC), a rival political party. Should NDC win the ongoing elections, Byberg might lose some of his influence as he would have fewer ties with the new governing party. However, as was mentioned in the Review, Byberg attempted to mitigate this risk and sources report that he recently made a good progress in establishing further ties within the wider Ghanaian political and business circles. These ties should allow Byberg to maintain some degree of influence and continue to promote BA's interests even if NDC wins the elections. Perennial Bioenergy's Board of Directors' good political and economic connections in Ghana should also further mitigate any political risk for BA associated with the ongoing Ghanaian elections.

APPENDICES

APPENDIX 4: SOURCES

During the course of this Review, Diligence accessed the following sources:

- Senior members of the National Petroleum Authority of Ghana;
- The Chairman of Ghana's New Patriotic Party;
- A source in the Executive Director's Office of Ghana's Environmental Protection Agency;
- A contact in the Ghana Chamber of Mines;
- A contact at the Regional Advisory Information and Network Systems (RAINS);
- Diligence's privileged human intelligence network in the region.

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Skartveit, Ellen Marie

Emne:

VS: VS: 5 Questions

Hi.

Her kommer spørsmålene som ble lest opp. Jeg ringer dere etter møtet med Arne Helvig m.fl.

Questions raised by the Client:

- “1. which BA representatives joined Mr Fofana in this meeting?
- 2. which BA representative paid a sum of money to the government official?
- 3. why would BA pay money to NPA when, as far as we know, it is the EPA that issue licences?
- 4. could the sum have been part of a payment in accordance with a land lease agreement?
- 5. exactly where and when was this done?”

Best regards,

Gunnar Grosse Kreymborg
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IDD CLIENT FOLLOW UP:
BIOFUEL AS, BIOFUEL AFRICA AS
& BIOFUEL AFRICA LTD
JANUARY 2009

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INTELLIGENCE & CONTEXT

NOTE ON INTELLIGENCE AND CONTEXT

Much official documentation in Ghana is either not publicly available or can, in the best of cases, be obtained only by physical retrieval. The Client has historically made it clear to Diligence that it does not wish to receive official documents which are not intended for public dissemination. Consequently, IDD's in jurisdictions such as Ghana are conducted to a large extent on the basis of source intelligence which is reflected in the Proposal for Services submitted by Diligence. Human intelligence is naturally subjective and not always comprehensive. In order to mitigate against this, Diligence always strives to identify those individuals most likely to have in-depth knowledge of a situation while also describing the provenance of the source so that the Client can decide on the veracity of the intelligence. To the extent possible Diligence corroborates source intelligence and offers analysis based on past experience and context. It is at the Client's discretion whether to follow Diligence's recommendations depending on the Client's internal assessment of the risks and recommendations presented.

IDD CLIENT FOLLOW UP

QUESTION ELIGIBLE FOR CLARIFICATION & CONTEXTUALISATION		
FASSINE FOFANA Questions raised by the Client: 1. which BA representatives joined Mr Fofana in this meeting? 2. which BA representative paid a sum of money to the government official? 3. why would BA pay money to NPA when, as far as we know, it is the EPA that issue licences? 4. could the sum have been part of a payment in accordance with a land lease agreement? 5. exactly where and when was this done?	This intelligence emanates from a member of the Board of Directors (BoD) of one of BA's shareholders. This source also sits on another company's BoD with Fofana. As such it should be treated with EXTREME SENSITIVITY and should not be viewed as being negatively motivated in itself or as ignorant. (See Quote A in Appendices) 1. Based on the intelligence received, particularly the detailed description of the meeting, Diligence has found no reason to question that the member of the BoD of BA's shareholder (above) accessed by a Diligence source attended this meeting. 2. As with 1 above - or someone close to this individual. 3. The report does not make mention of BA paying money to the NPA in relation to Fofana. NPA sources confirmed this rumour, but did not imply that the NPA had received the money (see p. 23 of the IDD Report). 4. Unlikely as there was no reference to any official agreement or contract and intelligence (Quote A) indicates that the money was paid to an unidentified, single government official. 5. Diligence sources with access to the relevant individuals were not made aware of exactly when or where this incident occurred 6. Diligence's IDD report referenced Mwana Africa as "local contact" and "actively promotes its (the Company's) interests" only (see pp.4 & 23 of the IDD Report). Enquiries did not identify any evidence that Mwana Africa has a legal arrangement to represent Biofuel in Ghana. Source intelligence indicated that Mwana Africa is a well-connected company in Ghana and, as such, maintaining positive relations with Mwana Africa would benefit Biofuel's activities in Ghana. While Diligence does not consider the relationship with Mwana Africa to be a cause for concern in itself, should the Client wish, Diligence can conduct a separate investigation of the nature of Mwana Africa's relationship with Biofuel in Ghana.	
MWANA AFRICA Question raised by the Client: 6. which companies have an agreed role to represent BioFuel in Ghana?		

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BYBERG & NPP Questions raised by the Client: 7. ...there are no allegations that this support is viewed as illegal even if it is said that it is in "a more or less illegal situation" What is meant by this – is it legal or not? 8. Support by industrial leaders to political parties is also well known in Norway. Could such support be viewed as a private contribution or is it something that clearly is linked to the company?	7. (See Quote B in Appendices). The report does not state that Byberg's support of the NPP is illegal – the source commented that Biofuel (as a company) "acts in a more or less illegal situation" presumably in reference to the land-lease scandal. The main concern in relation to Byberg's support of the NPP was that of political exposure particularly given recent elections. 8. According to sources, Byberg made these contributions as a representative of Biofuel and not as a private citizen.
LICENSES / REGULATORY BODY INTERACTION Questions raised by the Client: 9. Is it NPA or EPA that provides such legal licenses in Ghana? As we understand, EPA is the body providing such licences. Does NPA and the responsible civil servants providing BioFuel with its current licences view them as being illegitimate or not sufficient? 10. We need to have the EPA view on this.	9. Please see Appendices pp.12-16 regarding the statutory responsibilities of the NPA / EPA with relation to licence issuing. From RAINS' reporting it would appear that, initially, the invalid land lease involved the Company and local government bodies as opposed to either the NPA / EPA. (Please see Quote E in Appendices) 10. Diligence, according to the Proposal for Services for the IDD proposed to "Review BAG's activities in Ghana, with a specific focus on events surrounding BAG's dealings with the local population in relation to land purchases in Kusawgu..." Review of open source material indicates that the EPA, together with the Central Gonja District Assembly, was involved in <u>suspending</u> BAG's work on the site in question.

IDD CLIENT FOLLOW UP

CLIENT QUESTIONS OUTSIDE THE SCOPE OF THE PROPOSED IDD OF 04/11/08 *	
FASSINE FOFANA Question raised by the Client: 11. Exactly when and where was this done? (Payments)	11. Diligence cautions against requesting further clarification from this source on specific details that would further incriminate the source and jeopardise the Client's confidentiality. As part of the Review Diligence proposed to obtain informed source comment and judged this source – a BoD member of a BA shareholder as described above – as being such.
MWANA AFRICA Questions raised by the Client: 12. Which companies have an agreed role to represent BioFuel in Ghana? 13. Proof of these claims	12. Identification of BAG's legal representatives was not a proposed Service as outlined in the Proposal of Services submitted to the Client. Should Diligence nevertheless have identified information on legal representatives during the course of enquiries, such information would have been included in the report. 13. The provision of non-publicly available official documentation falls outside the scope of agreed services to the Client.
BYBERG & NPP Questions raised by the Client: 14. Giving financial support to a legal political party may be viewed as negative even if it is not directly illegal. Are there any evidences supporting the alleged financial support? 15. If so, may these contributions be viewed as transparent?	14. (See Quote B in Appendices) Diligence concurs that political association can, in certain circumstances, constitute a risk to the Client. This is a source comment emanating from a senior contact within the NPP and, in Diligence's analysis, is a strong indication that Byberg, on behalf of Biofuel does indeed support the NPP financially. As with Fofana above, Diligence was asked to obtain informed source comment; obtaining non-publicly available official documentation falls outside the scope of agreed services to the Client even were it to be available. 15. No evidence or rumour was identified to indicate that the support of the NPP could be viewed as being non-transparent. In Diligence's analysis, the NPP source's willingness to discuss the issue indicates that the support is not highly confidential nor necessarily controversial.

IDD CLIENT FOLLOW UP

TRIBAL CHIEFS Questions raised by the Client: 16. It is claimed that BioFuel has made contracts through local community leaders and that the chief himself...was not informed. This should have been checked. 17. Please confirm by consulting the relevant paramount chiefs if they have not been informed or if not the right local routines are followed. Please also verify if BioFuel had been made aware of such local decision procedures and if they have ignored them.	16. This issue has been highlighted and investigated by NGOs and media organisations, both Norwegian and international. At the onset of this Review, the Client sent Diligence a link to a Norwegian televised documentary and Diligence further notes that, in June 2008, this issue was raised before the Environment Committee of the European Parliament by the African Biodiversity Network. Diligence's report showed corroboration of the allegations by sources within the NPA and NPP (See Quotes B, C and D in Appendices) 17. Diligence proposed to "Review BAG's activities in Ghana, with a specific focus on events surrounding BAG's dealings with the local population in relation to land purchases in Kusawgu..." Diligence considers the steps mentioned above as meeting the scope outlined in the proposal. Consultation with the relevant paramount chiefs falls outside of the agreed scope of work. Such consultation can be conducted but requires a significantly different time frame and budget than that applicable for an IDD Review as per the Proposal agreed with the Client.
AUTHORISED LAND CLEARANCE Questions raised by the Client: 18. Proof of the unauthorised clearing of 2600 ha should be provided including pictures of the said area. The report is far from supplying convincing arguments as our information is, that RAINS may also have other agendas 19. It should be verified which clearances/approvals/licenses that BioFuel still miss to make their current activity legal. 20. Have Diligence consulted the chiefs and paramount chiefs in the area and got an impression of whether they see BioFuel's current activities as being legal or not?	18. Providing photographic evidence of the unauthorised clearance is outwith the scope of the proposed IDD. This information was provided in the report as part of BA's public profile. As stated by the Client, BA itself has admitted that an area was unlawfully cleared and this issue has been highlighted by NGOs and media. 19. Providing official documentation relating to approvals or licenses falls outside the scope of the proposed IDD and would, in some instances, require legal opinion specific to Ghana which Diligence is not in a position to issue nor has proposed to issue. 20. Diligence proposed to "Analyse BA and BAS' business practices in Norway, and BAG's in Ghana, and review any inconsistencies in the Companies' performance..." under which the land clearance issue was raised. Diligence considers the information presented in the report as meeting the requirement as outlined in the proposal.

IDD CLIENT FOLLOW UP

21. How is the relationship between EPA and NPA? How do they co-operate and what is their division of responsibility? Are there any strides over authority or responsibility between the two offices? 22. Is RAINS in any way representing official or local bodies of Ghana? It could be viewed this way when they take on the job of presenting alternative lease contracts to BioFuel?	21. This question falls outside the scope of Diligence's proposed IDD as it is wholly concerned with the relationship between the EPA and NPA. Should the Client wish a separate investigation of this relationship can be conducted under a new Service agreement with the Client. 22. According to open source information, RAINS is a non-governmental organisation (NGO) that works with local communities and development partners. The organisation's website provides annual reports and a full list of its trustees. A separate investigation can be carried out into RAINS and its principals to establish whether there are any linkages between the organisation and other entities that may wish to hinder Biofuel's activities in Ghana. Please note that RAINS itself has argued that local bodies were politicised against its efforts to suspend Biofuel's operations (see Quote E in Appendices).
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* FOR THOSE ISSUES WHICH REMAIN OF CONCERN TO THE CLIENT, DILIGENCE RECOMMENDS THAT A FURTHER IDD REQUEST AND PROPOSAL IS ISSUED. IN SOME INSTANCES THIS MAY REQUIRE FIELD WORK BY DILIGENCE STAFF IN GHANA ITSELF.

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QUOTE A

"Fassine Fofana is the man we use in order to maintain confidential contacts to the Governments of the area. If we have been sure that it was possible to start our project in Ghana only with the contact we got from the Tribe we met, this was because Fassine Fofana brought us to a meeting with a member of a Commission that has the target to deregulate the whole licensing system in Ghana. That man, I don't remember his name but he had eyeglasses, assure us that with a little bit of money everything would be alright. Fofana asked us a sum, we paid it in an envelop, the man had a broad smile and said that we can consider us as his friends. Then Fofana asked for 10% of that sum and we paid it in despite of the fact that it was a very high fee, but we have been happy because we could start immediately with our work. This is the reason why I accepted to work with Fofana in some other projects: he's a very [reputable] man in West Africa, has a lot of connections and could be very relevant for our company in the near future".

QUOTE B

Diligence's contact with access to the Chairman of NPP stated that the latter explained that: *"Finn Byberg has a lot of good friends in our party. We believe that Ghana should say 'welcome' to the Norwegian investments because he (has) already shown us that he's a good friend of our people."* The NPP source posited that *"I know that there are rumours about bribes that he paid to some politician, but this is not true. Finn Byberg is officially (supporting) the NPP – also financially – but not (a) single person."* We have an election to win in the next weeks and it's going to be important also for Norway: Despite disputing claims of bribery, the NPP source did say that *"actually Biofuel acts in a more or less illegal situation. If Mr. Byberg would help us to win this election we will show him how much gratitude we can have. Always respecting the law, of course".*

QUOTE C

The Head of NPA National Petroleum Authority of Ghana: *"We all know about the problem with Biofuel. They are usurping a large territory with a contract, which is less worth (than) the paper it's made of. The State of Ghana never gave any contract or exploitation's license to Biofuel. Never. The*

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problem is that Biofuel bribed several members of the local authorities around the concession and they let them live and work in despite of the fact that they are illegal there. In summer we started a proceeding to oblige them to leave the country. Their reaction is to use the security guards to intimidate some of our managers in that region and the influence of people like Fassine Fofana – who are always bringing beautiful gifts and most of all cash to the politicians and tribal chiefs he meets. But this doesn't change the situation: Biofuel is completely illegal here and sooner or later they will be obliged to go”.

QUOTE D

Head of Legal Division of the NPA National Petroleum Authority of Ghana: *“Biofuel has no contract with our country. They are acting against the law. Their strategy is to try to let us lose time in boring negotiations and wait for the day in which they can buy a real license corrupting Mr. Attafuah and Mr. Mensah, which are the leading persons of NPA. As you know, nowadays Ghana is deregulating the whole exploitation's system. Everything will be in the hands of Mr. Attafuah and Mr. Mensah, but most of all in the hands of Inkum Adipa, the chief of Cirrus Oil. Then Biofuel needs only to bribe Cirrus Oil, two leaders of NPA, get a deal with Vitol (because they are still very mighty here and are the former owners of Cirrus Oil) and finally have a contract with Trigon for the bulks and you will see that a wonder could happen. Normally we should go there with the Army and kick them all out of the country”.*

QUOTE E

Biofuel land grabbing in Northern Ghana, 18.12.2008, By Bakari Nyari, Vice Chairman of Regional Advisory and Information Network Systems (RAINS), Ghana and African Biodiversity Network Steering Committee member.

“The strategy for the acquisition of the land often takes the following course: The imaginations of a few influential leaders in the community are captured. They are told about prospects for the community due to the project and they were swayed with promises of positions in the company or with monetary inducements. The idea is that these people do the necessary “footwork” in the villages where they spread the word about job opportunities. A document is then prepared, essentially a contract, to lease the land to the company. In the event of problems the developer can press their claim by enforcing the ‘contract’ or agreement. When the legality of the process is not adequately

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scrutinized, the developers have their way but, subject to proper scrutiny, it emerges these contracts are not legally binding as they have not gone through the correct legal channels. This is what happened in this particular case in the Alipe area."

"RAINS immediately contacted the District Chief Executive (DCE), the political head of the District to inquire about the project. Neither he nor the District Assembly had any information about it. He had noticed the work on the site and was in the process of finding the "culprits" because they did not have any planning permission to undertake the development. To gain time, we advised the DCE to use the planning powers conferred on the District Assembly under the Local Government Act 1993 Act 462 to stop the destruction of the vegetation."

"Under this law nobody can undertake any development of land without seeking the prior approval of the District Assembly of the area. In this particular case the Assembly could not stop them owing perhaps to the highly politicized nature of the Assembly process and the vulnerability of the personnel there. Eventually, using the Environmental Assessment Regulations LI 1652, we managed to get them to stop the destruction but not before more than 2 600 hectares of land had been stripped of its natural vegetation cover."

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STATUTORY FUNCTIONS OF EPA AND NPA

EPA	NPA
Under the Environmental Protection Agency Act, 1994 (ACT 490), the functions of the Agency are: (a) To advise the Minister on the formulation of policies on all aspects of the environment and in particular make recommendations for the protection of the environment; (b) To co-ordinate the activities of bodies concerned with the technical or practical aspects of the environment and serve as a channel of communication between such bodies and the Ministry; (c) To co-ordinate the activities of such bodies as it considers appropriate for the purposes of controlling the generation, treatment, storage, transportation and disposal of industrial waste; (d) To ensure in collaboration with such persons as it may determine the control and prevention of discharge of waste into the environment and the	National Petroleum Authority Act, 2005 Act 691 section on licensing. Licences Requirement for licence 11. (1) A person shall not engage in a business or commercial activity in the downstream industry unless that person has been granted a licence for that purpose by the Board. (2) The business or commercial activities of the downstream industry in respect of crude oil, gasoline, diesel, liquefied petroleum gas, kerosene and other designated petroleum products are (a) importation, (b) exportation, (c) re-exportation, (d) shipment, (e) transportation, (f) processing, (g) refining, (h) storage, (i) distribution, (j) marketing, and

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protection and improvement of the quality of the environment; (e) To collaborate with such foreign and international agencies as the Agency considers necessary for the purposes of this Act; (f) To issue environmental permits and pollution abatement notices for controlling the volume, types, constituents and effects of waste discharges, emissions, deposits or other source of pollutants and of substances which are hazardous or potentially dangerous to the quality of the environment or any segment of the environment; (g) To issue notice in the form of directives, procedures or warnings to such bodies as it may determine for the purpose of controlling the volume, intensity and quality of noise in the environment; (h) To prescribe standards and guidelines relating to the pollution of air, water, land and other forms of environmental pollution including the discharge of wastes and the control of toxic substances; (i) To ensure compliance with any laid down environmental impact assessment procedures in the	(k) sale. (3) The Authority may by legislative instrument limit or expand the scope of activities under section 11 subsection (2). Qualification for licence 12. A licence under this Act may only be granted to (a) a citizen of Ghana; or (b) a body corporate registered under the Companies Code, 1963 (Act 179) or (c) a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152); or (d) a foreign individual or foreign company in a registered joint venture relationship with a citizen of Ghana or a Ghanaian company. Application for licence 13. (1) A person may apply to the Board for licence in the manner determined by the Board with the prescribed fee. (2) The Board shall, within thirty working days of the receipt of an application, acknowledge receipt and inform the applicant in writing of the decision of the Board. (3) The Board shall on satisfaction that an applicant has met all the preconditions including the payment of the prescribed fee, direct the entry of the applicant's name in the Register of licences established under section 20. Conditions of licence 14. (1) A licence shall not be granted to an applicant unless the applicant has complied with any other requirement specified by the Board and any other relevant enactment. (2) A licence granted by the Board is subjected to the conditions specified in the licence.
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planning and execution of development projects, including compliance in the respect of existing projects; (j) To act in liaison and co-operation with government agencies, District Assemblies and other bodies and institutions to control pollution and generally protect the environment; (k) To conduct investigations into environmental issues and advise the Minister thereon; (l) To promote studies, research, surveys and analyses for the improvement and protection of the environment and the maintenance of sound ecological systems in Ghana; (m) To initiate and pursue formal and non-formal education programmes for the creation of public awareness of the environment and its importance to the economic and social life of the country; (n) To promote effective planning in the management of the environment; (o) To develop a comprehensive database on the environment and the environmental protection for the information of the public;	(3) The Board may request from the applicant where necessary, (a) a clearance certificate or an appropriate permit from the Environmental Protection Agency and Ghana Standards Board; (b) evidence of (i) financial viability for the ownership or operation of the business or commercial activity, (ii) adequate training, qualification and experience to engage in the business or commercial activity in accordance with this Act, and (iii) other requirements in the manner and at the times the Board may determine. Issue and renewal of licence 15. (1) Where an applicant meets the condition required by this Act for a licence to engage in a business or a commercial activity in the petroleum downstream industry, the Board shall approve the application and issue the applicant with the licence. (2) Despite subsection (1), the Board may for reasons in the public interest, public safety or public security decide not to issue an applicant with a licence and shall inform the applicant of its decision in accordance with subsection (1) of section 19. (3) A licence issued is valid for the period specified on it and may be renewed upon satisfying all the conditions for renewal as specified in the licence. (4) An application for the renewal of a licence shall be made to the Board not later than sixty days prior to its expiry and in the manner determined by the Board. (5) The applicant who seeks to renew a licence shall pay the prescribed fee prior to the issue of the licence.
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(p) To conduct seminars and training programmes and gather and publish reports and information relating to the environment; (q) To impose and collect environmental protection levies in accordance with this Act or regulations made under this Act; (r) To co-ordinate with such international agencies as the Agency considers necessary for the purposes of this Act; and (s) To perform any other functions conferred on it under this Act.	Display of licence 16. A licence issued under this Act shall be conspicuously exhibited by the licensee in a prominent place on the business premises of the licensee. Non transferability of licence 17. A licensee issued with the licence shall not transfer that licence to another person without the prior approval of the Board. Revocation, suspension and refusal to renew licence 18. The Board may revoke, suspend or refuse to renew a licence issued under this Act where (a) the provisions of this Act of the Regulations are not being satisfactorily complied with, (b) the continued operation of a business or commercial activity poses a risk to public health, safety and security, (c) the services provided by the licensee have deteriorated below the required standard, (d) the licensee has not complied with any of the conditions of the licence, (e) an offence under this Act in relation to the licensee is being investigated, (f) the licensee has contravened but has not been convicted of a provision of this Act. Notice of revocation, suspension or refusal to issue or renew licence. 19. (1) where the Board intends to revoke, suspend or refuse to issue or renew a licence under this Act, the Board shall give the applicant or licensee (a) thirty days prior notice of the revocation, suspension or the intention to refuse to issue or renew the licence, (b) reasons for the intention to revoke, suspend or refusal to issue or renew the licence, and (c) an opportunity to make an oral or written representation to the Board.
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	(2) An applicant or licensee who receives a notice may make a representation to the Board within fifteen working days from the date of receipt of the notice. (3) The Board shall within three months after the representation take a decision on the representation and inform the applicant or licensee. (4) The Board shall as soon as practicable inform the Minister in writing of any decision it takes on a representation.
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QUOTE A

“Mr XX is the man we use in order to maintain confidential contacts to the Governments of the area. If we have been sure that it was possible to start our project in country YY only with the contact we got from the Tribe we met, this was because Mr. XX brought us to a meeting with a member of a Commission that has the target to deregulate the whole licensing system in country YY. That man, I don’t remember his name but he had eyeglasses, assure us that with a little bit of money everything would be alright. Mr XX asked us a sum, we paid it in an envelop, the man had a broad smile and said that we can consider us as his friends. Then Mr XX asked for 10% of that sum and we paid it in despite of the fact that it was a very high fee, but we have been happy because we could start immediately with our work. This is the reason why I accepted to work with Mr XX in some other projects: he’s a very (reputable) man in “various countries in the region”, has a lot of connections and could be very relevant for our company in the near future”.



Perennial Bioenergy AS
Prof. Olav Hanssens vei 7A
4021 Stavanger
Norway

StatoilHydro ASA
Forusbeen 50
4035 Stavanger
Norway

Attn: President and CEO Helge Lund

Stavanger, 9 February 2009

Perennial Bioenergy AS - alleged corruption in Ghana and request for cooperation

1. Introduction

We represent Perennial Bioenergy AS (Perennial) and are contacting you on behalf of Perennial and its Board of Directors due to a corruption-allegation that has arisen as a result of a process in which StatoilHydro ASA (StatoilHydro) - represented by the company "Statoil New Energy AS" – from mid-2008 until 4 February 2009 was considering an investment in Biofuel AS (Biofuel), a company where Perennial currently holds 35,63 % of the shares.

Specifically, we contact you directly at this time because StatoilHydro, represented by Mr. Michael Price (VP, Business Integrity, StatoilHydro ASA), presented information to Biofuel and Perennial in an in-person meeting on Friday 30 January which indicated the existence of a corruption-related issue in Perennial. As this issue presently stands, it unfortunately implicates the entire Board of Directors of Perennial, and in a manner that remains highly unsatisfactory.

The manner is unsatisfactory because numerous attempts at coordinating a fact-based investigation with StatoilHydro's Business Integrity department have gone unanswered. The corruption-related allegations remain highly veiled and deeply wanting of key facts. It is this lack of cooperation from StatoilHydro's Business Integrity department, combined with our realization that it may be difficult to resolve the grave allegations without professional and cordial cooperation with StatoilHydro, that have forced us to bring this to your urgent attention.

2. Key issues

- a) We need StatoilHydro ASA to co-operate in verifying or clearing allegations presently aimed at all members of Perennials board:

1. StatoilHydro has in fact opened hearsay evidence related to all the 7 members of the Board in Perennial by passing on information about alleged criminal actions by one and, to-date, undisclosed Board member and it is completely unacceptable to Perennial's board members, be it as a group, as professionals, or as individuals, to let the accusations pass without some clarification by StatoilHydro;
 2. It is impossible to fully defend and be exonerated against unspecified allegations and thus is it necessary to clarify what these allegations will add up to at the end of the day;
 3. As the Board of Perennial consist of respected individuals with very high and visible profiles, for example the prior Minister of Oil and Energy in Norway, the Chairman of a listed oil-company, etc., and further as the number of people in possession of this information of alleged corruption is growing each day, we are extremely worried and un-easy about the possibility that these allegation soon will reach the public domain, and do so before the Board of Perennial has been able to get to the bottom of the case (we surmise that StatoilHydro's CEO would have similar concerns).
- b) The way the allegation handling makes it impossible to finance Biofuel AS:
1. Enclosed is a letter from First Securities ASA which clearly describes the predicament StatoilHydro ASA handling of the allegations raised has put Biofuel AS into.
 2. As investors in Biofuel AS, Perennial is in a position where the company stands to lose a substantial investment due to unsubstantiated hearsay brought up by StatoilHydro ASA, and by StatoilHydro ASAs stonewalling of attempts to co-operate in investigating the context and validity of these accusations.

3. Background on corruption allegation

The following quote (Quote A) was presented in writing to the CEOs of Biofuel and Perennial at a meeting at StatoilHydro at Forus on the afternoon of Friday 30 January:

“Mr XX is the man we use in order to maintain confidential contact to the Governments of the area. If we have been sure that it was possible to start our project in Country YY only with the contact we got from the Tribe we met, this was because Mr. XX brought us to a meeting with a member of a Commission that has the target to deregulate the whole licensing system in country YY. That man, I don't remember his name but he had eyeglasses, assure us that with a little bit of money everything would be alright. Mr XX asked us a sum, we paid it in an envelope, the man had a broad smile and said that we can consider us as his friends. Then Mr XX asked for 10% of that sum and we paid it despite of the fact that it was a very high fee, but we have been happy because we could start immediately with our work. This is the reason why I accepted to work with Mr XX in some other projects: he's a very (reputable) man in “various countries in the region”, has a lot of connections and could be very relevant for our company in the near future.”

Present at that meeting on behalf of StatoilHydro were Michael Price (VP Business Integrity) and Mr. Stephanous G. Orestis (Legal Counsel). In addition to issuing the written quote above to the two CEOs, StatoilHydro also informed them of the following via oral communication:

- This was information that “had been made known” to StatoilHydro;

- This information was “a matter of concern”;
- The quote was a statement given by one of the Board members in Perennial;
- Mr. XX allegedly was a man named Mr. Fafana;
- A company with name EEG was a linkage; and
- Country YY allegedly was Ghana.

Mr. Price denied disclosing whom of the 7 Board members that allegedly had made the statement, but did confirm that it was one of the 7 members of the Perennial Board of directors.

4. Perennial’s subsequent actions on corruption allegation

The Board of Directors in Perennial was immediately informed. Please find attached the Minutes of Meeting from Perennial’s Board of Directors meeting held on 2 February 2009 (enclosed as Exhibit 1), and which was forwarded to Mr. Price on that day via e-mail (Exhibit 2). As it appears from Exhibit 1, the Board of Perennial took these accusations of criminal actions very seriously, as:

- Each and every Board member rejected the allegations presented by StatoilHydro;
- None of the Board members had had any contact with anybody named Mr. Fafana and/or the company EEG (Note: These names were corrected on or about 4 February 2009 when Biofuel AS and Perennial became aware that they should have been relayed to Perennial’s Board as “Mr. Fofana” and “EER”);
- Perennial reported that it would investigate these allegations and that the company was willing to continuously report to StatoilHydro as such investigation progressed; and
- All Directors of the Board, of whom one of them indeed was accused of having stated "Quote A", demanded from StatoilHydro that the name of the person in question was disclosed to the Perennial Board as a necessary step in the process of either dealing with or invalidating (as the case may be) the allegation.

On 4 February 2009 Mr. Sjur Haugen on behalf of Statoil New Energy AS informed Biofuel of the decision not to go ahead with the proposed investment. Perennial had not received any information or comments from StatoilHydro prior to this date related to the corruption-allegation, on which the Board requested more information on 2 February 2009.

The Board of Perennial was indeed surprised to learn of StatoilHydro’s decision, especially since it was made before any contact had been made between the relevant parties to share information related to the corruption issue – StatoilHydro as a potential investor in Biofuel , and Perennial’s Board of Directors, now accused of criminal activities in Ghana. The Board would have had to assume that allegations of corruption could be relevant for the investment decision, and would have expected discussions with StatoilHydro prior to the investment decision was being made - in order to clarify whether and/or avoid that the investment decision being made based on wrongful facts.

The Board of Perennial urgently reconvened on 6 February 2009 (Minutes of Meeting enclosed as Exhibit 3) and decided (in brief):

- Notwithstanding StatoilHydro's decision related to investing in Biofuel AS it was extremely important to the Board to promptly clear this issue up, and to do so as a stand-alone issue;
- The Board noted that the information received from StatoilHydro contained little specific and fully insufficient information to enable investigation of this matter;
- Accordingly, the Board assumed that professional, full, and expedient cooperation would be initiated by StatoilHydro immediately by disclosure of key facts and any other relevant information to Perennial - including use of Third Parties if appropriate to properly respect any issues of confidentiality; and
- The Board requested the CEO and Chairman of Perennial to meet with StatoilHydro's Business Integrity Dept urgently.

During 5, 6, and 7 February 2009 we have repeatedly tried to contact Mr. Price and Mr. Orestis on phone, cellphone, e-mails, text messages, and at their respective offices. It has been impossible to get in touch with the very persons we felt it appropriate to contact.

5. Detailed explanation for contacting StatoilHydro's CEO on this matter

The above is the background for contacting you directly. As responsible for protecting the values of Perennial and Perennial's portfolio company Biofuel, we are compelled to contact you directly for the following reasons:

4. Perennial's Board has decided to fully cooperate with and inform StatoilHydro of any findings in the internal investigation;
5. Said investigation has produced the preliminary finding that the allegation of corruption is wrongful;
6. The Board of Perennial would like to inform Statoil of the current status and moreover the next steps to be taken and to get StatoilHydro's comment on the proposed steps;
7. StatoilHydro has in fact opened hearsay evidence related to all the 7 members of the Board in Perennial by passing on information about alleged criminal actions by one and, to-date, undisclosed Board member and it is completely unacceptable to Perennial's board members, be it as a group, as professionals, or as individuals, to let the accusations pass without some clarification by StatoilHydro;
8. It is impossible to fully defend and be exonerated against unspecified allegations and thus is it necessary to clarify what these allegations will add up to at the end of the day;
9. As the Board of Perennial consist of respected individuals with very high and visible profiles, for example the prior Minister of Oil and Energy in Norway, the Chairman of a listed oil-company, etc., and further as the number of people in possession of this information of alleged corruption is growing each day, we are extremely worried and un-easy about the possibility that these allegation soon will reach the public domain, and do so before the Board of Perennial has been able to get to the bottom of the case (we surmise that StatoilHydro's CEO would have similar concerns); and
10. As responsible for protecting the values in Perennial and Perennial's portfolio company Biofuel it is necessary to re-establish communication with StatoilHydro in order for Perennial to investigate and later close this matter. Otherwise this matter will in a matter of a few days fully eliminate the chances of capitalizing Biofuel and indeed succeeding with the business model of Perennial.

6. Preliminary findings

In short, Perennial and Biofuel has worked extensively over the last week with an internal investigation involving key people in Biofuel AS and in Perennial Bioenergy AS (15 persons in all, including legal) to establish the relevant facts related to Quote A.

Our best explanation thus far – in the absence of cooperation with your company – indicates there might have been a mix-up of facts.

The following are our preliminary findings;

- a) **We have understood Quote A to relate only to Perennial and its Board.** Perennial understands this issue to be related only to one or more of the members of the Board in Perennial, and not to be related to employees in Biofuel in any manner. Please let us know should this not be a correct interpretation of Quote A.
- b) **It is very unlikely that Quote A is related to Biofuel's activities in the country Ghana, but could plausibly be related to other companies' oil and gas or mining-related activities in the (different) country Guinea.** First, this is due to the fact that Jathropa farming in Ghana does not require a "licence" (as stated in Quote A) but rather a permit from the authorities. Second, it does not involve permitting from a "Commission" but rather from an Agency (The Ghana Environmental Protection Agency). Third, the phrase "licencing system" does not fit at all with Ghanaian agricultural terminology, but does fit well with standard E & P licensing systems, for instance in Guinea in the businesses involving for oil and gas drilling, as well as mining. Fourth, there has to our knowledge been no review of the current permit system in Ghana related to Jatrophia farming. This is also contrary to the content in Quote A. Fifth, we have identified through open sources that there was a Norwegian company called Biofuel Energy ASA (now named Umoe Bioenergy ASA) whose key investor (Umoe Invest) also is associated with one or possibly two West-Africa based mining operation, Crew Gold (and possibly Crew Minerals, now associated with Intex Resources), both of whom are or were operating in Guinea. This company Biofuel Energy ASA (now named Umoe Bioenergy ASA) is not related in any manner to Biofuel AS, but has, together with the linkages to the country Guinea, not far from Ghana, obvious potential for a mix-up of company facts and/or allegations. Based on the above, we would very much like to clarify that StatoilHydro or any agency has not simply mixed Ghana and Guinea or Biofuel Energy ASA with Biofuel AS.
- c) **All links to any "Mr. Fofana" are prior to Perennial's involvement with Biofuel AS and its Ghana operations.** A Mr. Fassine Fofana that we have been able to identify (whether the right or wrong 'Mr Fofana' we are not sure of, due to lack of key facts from Statoil) has the following resume; *"Advisor, VP Government Relations (54) is a chemical engineer (Toulouse, France) with an MBA from INSEAD, MSc in Financial Economics from University of London and Advanced Management Program at Harvard Business School. He was Minister of Mining & Energy in Guinea from 1994-2000 and Secretary General for Central Bank of Guinea from 1991-1994. He previously held Chairmanship positions in resource companies (gold and bauxite mining and alumina refining) and held strategic planning role with Cummins Engine Company the US based diesel engine maker. From 1996 to 2000 he was a member of the governing board of the African Development Bank. He has worked as a consultant since 2000 and joined Energy Equity Resources (EER) in 2004."* Mr. Trygve Refvem,

one of the Board members in Perennial, has had one meeting with Mr. Fofana in London in 2006 in connection with Mr. Refvem being advisor for the energy company Energy Equity Resources (EER). Mr. Fofana was then a non-executive Board member of EER. However, Mr. Trygve Refvem has not discussed Ghana, Biofuel AS or any matter related with Jatropha farming with Mr. Fofana, and has not had contact with him either before or after said meeting in London. Mr. Refvem was last in Ghana in 2003; long before Biofuel AS actually existed, and has therefore not been to Ghana (or Guinea) on business for neither Biofuel AS nor Perennial Bioenergy AS.

- d) **No other link between Mr. Fofana and other Board members of Perennial has been discovered.**

Perennial propose to deal with these findings in the following manner:

- a) Both companies will follow good ethics and good governance principles in a joint sharing of key facts;
- b) Strengthen the internal investigation with external resources by a recognized firm providing anti corruption services. For assistance we are currently in contact with Erlend Grimstad's firm G-Partner in Oslo/Stavanger. This will be clarified shortly, possibly during today;
- c) Mr. Trygve Refvem has notified the Board that he is willing step down as a Board member as long as this is a continuing internal investigation. However, while the Board appreciates that Mr. Refvem would have given an opening to temporarily allow the Board of Perennial and Biofuel to work with the full focus of solving this issue without his involvement, the Board at this point sees no reason to accept Mr Refvem's offer simply because the Board and Mr. Refvem can find no indications that Quote A can possibly be connected to Mr. Refvem. Accepting Mr. Refvem's offer at this time would mean concluding on a matter still not clarified sufficiently to make any reasonable conclusions. On the other hand, Mr. Refvem would be pleased to meet with StatoilHydro to clarify the facts contained in this letter;
- d) To meet with representatives from StatoilHydro as soon as possible in order to discuss if and how StatoilHydro may co-operate in the process of investigating this matter. Perennial appreciates that StatoilHydro may have confidentiality commitments or other impediments prohibiting full disclosure, but would nevertheless like to discuss this as soon as possible. We would propose to deal with any such confidentially matters via use of legal Third Parties.

We kindly ask for your immediate attention to this matter, and look forward to working with any designated contact in StatoilHydro until complete, full, and professional resolution of this matter is achieved in accordance with good ethics and governance principles.

John Peter Hernes
Chairman of the Board
Perennial Bioenergy ASA

Odd Even Bustnes
CEO
Perennial Bioenergy ASA

CC:

- Members of the Board, Perennial Bioenergy AS
- Mr. Johan Fredrik Dahle, CEO, Biofuel AS

Biofuel AS
NO-4014 Stavanger
Att: Johan Fredrik Dahle

Oslo, 09.02.2009

Videre finansiering av Biofuel AS

Vi er gjort kjent med at StatoilHydro ASA har trukket tilbake sitt tilbud om å investere NOK 33 mill i Biofuel AS basert på fremforhandlet Term Sheet. Årsaken til dette er mistanke om at det kan foreligge en korrupsjonssak i selskapet i forbindelse med mulige pengetransaksjoner som daterer seg tilbake i tid.

Med en slik mulig korrupsjonssak hengende over selskapet vil det være svært vanskelig å finansiere selskapet videre. First Securities AS ønsker ikke å delta i en slik finansiering dersom ikke alle data omkring dette fremlegges og at det deretter kan konkluderes med mistanken er ubegrunnet.

Vi er gjort kjent med at det kan være usikkerhet inne i bildet om disse transaksjonene faktisk har skjedd, eller om disse transaksjonene har funnet sted i et annet selskap med et liknende navn, Biofuel Energy AS.

Vi påpeker at også for Biofuel AS er det helt avgjørende at de faktiske forhold klarlegges slik at eventuell videre finansiering av selskapet kan sikres.

Vi anbefaler at Biofuel AS tar kontakt med StatoilHydro ASA for å avklare hva korrupsjonmistanken skyldes.

Med vennlig hilsen

First Securities AS



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Final 23 February 2009 22:55

Joint Investigative Report (JIR)

from

Perennial Bioenergy AS and Biofuel AS

with the assistance of **Kluge Advokatfirma DA**

in connection with

Quote A

* * * **STRICTLY CONFIDENTIAL** * * *

Legal notice: This JIR is a preliminary product that will be expanded with a complete set of associated attachments when these are ready. It is released only to Investor's Legal Counsel and to Management and Board of Directors in Perennial and Biofuel on the clear provision that all receiving parties accept to maintain any and all information in this JIR strictly confidential. Any violation of this duty of confidentiality will be pursued with any available legal remedy.

23 February 2009

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1 In brief: Summary

1.1 In Brief: Conclusions

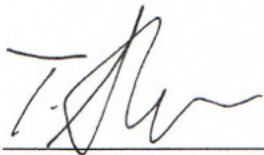
1. Clearly there is not sufficient evidence to conclude that any wrongdoing has occurred and that one can link Quote A to Perennial and/or Biofuel. To the contrary, we find no direct evidence of any wrongdoing whatsoever such as described in Quote A. The only "evidence" suggesting otherwise remain to be unsubstantiated hearsay evidence from an anonymous source.
2. The investigation so far leads to the clear conclusion that neither of the two companies (Perennial or Biofuel), nor Mr. Refvem and Mr. Byberg, seem to have been involved in any wrongdoing because (i) there exists significant gaps in the received evidence; (ii) there is a declared lack of purported personal relationships; and (iii) there is an overwhelming lack of evidence. All reasons supporting this opinion of the available evidence are thoroughly reviewed in the executive summary and in the remainder of this report.
3. Beyond Mr. Byberg and Mr. Refvem, there are definitively no other implicated personnel, including no other Board members, no other members of Management, or any Employees of the two companies.

1.2 In Brief: Process

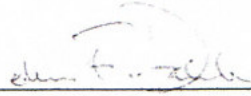
4. An internal investigation has been carried out with Perennial, Biofuel, and with legal advice obtained from Advokatfirmaet Kluge DA (Kluge).
5. The investigation has been aided by Investor and their service provider Company X.
6. The issue for the authors of this JIR has been to review disturbing facts from Company X on the one hand against preliminary findings from the internal investigation on the other hand, and in particular to make an independent and professional assessment of probability on this basis.

We have to the best of our knowledge reviewed and assessed the facts made available to us. The content of this report is subject to certain confidentiality obligations with Company X. Subject to such confidentiality obligations we are not aware of any relevant fact related to the Fofana-matter not mentioned in this report.

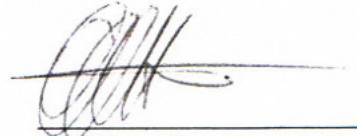
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2 Executive Summary

2.1 Introduction

A major investor (the Investor) has been contemplating an investment in Biofuel AS (Biofuel). For reasons of confidentiality the name of Investor may not be disclosed. The Investor has used the services of Company X to complete an Integrity Due Diligence check (IDD) of Biofuel, its shareholders, key management and Board of Directors.

The IDD resulted in the so called "Quote A" being disclosed by the Investor to Perennial Bioenergy AS (Perennial) and Biofuel.

The following quote (Quote A) was presented in writing to the CEOs of Biofuel and Perennial at a meeting at Investor's facilities on the afternoon of Friday 30 January 2009:

"Mr XX is the man we use in order to maintain confidential contact to the Governments of the area. If we have been sure that it was possible to start our project in Country YY only with the contact we got from the Tribe we met, this was because Mr. XX brought us to a meeting with a member of a Commission that has the target to deregulate the whole licensing system in country YY. That man, I don't remember his name but he had eyeglasses, assure us that with a little bit of money everything would be alright. Mr XX asked us a sum, we paid it in an envelope, the man had a broad smile and said that we can consider us as his friends. Then Mr XX asked for 10% of that sum and we paid it despite of the fact that it was a very high fee, but we have been happy because we could start immediately with our work. This is the reason why I accepted to work with Mr XX in some other projects: he's a very (reputable) man in "various countries in the region", has a lot of connections and could be very relevant for our company in the near future."

The Board and Management of Perennial and Biofuel immediately thereafter started working with investigating Quote A in order to learn all relevant facts related to Quote A and possibly to close this corruption matter in a period critical for both companies. Hence, Perennial is currently conducting an internal investigation into the so called "Fofana"-matter jointly with Biofuel AS (Biofuel). This internal joint investigation is summarized in this Joint Report (JIR).

Kluge Advokatfirma DA (Kluge) was assigned to contact Company X on behalf of Perennial in order to obtain information and to provide legal advice in connection with the JOR. Kluge has in agreement with all involved parties signed a Non-Disclosure Agreement (NDA), according to which all information to be released shall be approved by Company X.

Accordingly, this Executive Summary has been approved for release to Investor's Legal Counsel and the Management and Board of Directors in Perennial and Biofuel, provided that all parties accept to maintain any and all information in this Executive Summary and the JIR strictly confidential.

2.2 The IDD executed by Company X (according to information received)

Company X has informed of the following standard procedure in connection with the IDD:

- Accepting a Due Diligence assignment from the Investor with a defined mandate, timeframe and scope of work;
- Using available public databases, corporate documentation and open and confidential sources to compile and present a written IDD report to the Investor, where after the Investor had several follow up questions related to preliminary findings in the IDD; and
- Clarification, confirmation and then reconfirmation of certain critical pieces of information in the IDD, including in particular Quote A.

Company X has informed that the sources used, both in general and in this particular case, are knowledgeable and trustworthy and with in depth local expertise in the country in question (in this case Ghana). Further, it has been stressed that Company X has not brought forward any accusations, alleged facts or any of the like.

Company X has merely reported to the Investor findings of the IDD conducted. Company X is an independent firm within the field of Business Intelligence, and has no interest in the outcome of the Fofana-matter whatsoever or in the Investor's investment decision.

Finally, Company X has underlined that Company X does not provide legal advice and do not conclude on the legal status of facts and findings presented to its client. Hence, Company X has never concluded that Quote A represents criminal acts.

2.3 Summary of facts – as obtained from Company X

A source, whose identity has been vigilantly protected by Company X, has stated that a Board Member of Perennial on the phone during 2008 has stated Quote A to such source. Quote A refers to a payment from Perennial or Biofuel assumed by the source to have taken place during 2008 strongly indicating corruption. Quote A is understood by the source to relate to Biofuel and Perennial and the particular Jatropha business on the ground in Ghana conducted by Biofuel.

The paid official is allegedly a public official in Ghana or an individual with the capability to influence the furthering of Biofuel's business in Ghana. The middle man in Quote A is allegedly Mr. Fassine Fofana. Neither the tribe nor the commission in Quote A has been identified by the source and was not specified during the conversation between the source and the Board Member. The alleged money transfer took place either in Ghana or in London. The source has mentioned only one other name, Mr. Finn Byberg, as a person that "would likely be aware of this meeting (described in Quote A) or of transfer of money occurring".

Company X has no record of any other persons on a list presented by Kluge (consisting of any known persons in or connected with Perennial or Biofuel) being involved in any practices of corruption.

There is no risk of the IDD confusing Biofuel and Perennial with other companies/entities with similar names or within the same industry. Contact with sources have been mentioning names of particular persons connected to Biofuel or Perennial and not simply referring to the biofuel business or the company names involved.

It has been mentioned to Company X by other credible sources that a possibility exists that there may have been instances involving Biofuel in which payments like this may have been made. However, due to lack of detail available relating thereto, Company X cites this as uncorroborated rumors. The one witness statement made by the confidential source and these rumors indicated by other sources is the only evidence of corruption known to Company X. Company X has not obtained documents showing corruption, investigated money transfers, cash flows, transcripts from bank accounts or performed any other regular investigation into Quote A, other than working extensively with what is being considered credible sources. Such additional investigation would clearly fall outside the scope of the assignment of delivering the IDD.

2.4 Preliminary internal investigation by Perennial and Biofuel

Both companies have taken the allegation extremely seriously. This JIR summarizes actions taken and findings uncovered in the 3 weeks since the allegation first surfaced on 30 January 2009. Mitigating actions taken to date comprise internal and external investigations. All investigations must be characterized as having been of a 'rapid-fire' nature. In brief, the investigations have consisted of:

1. Open source investigations
2. Repeated interviews with involved Management, Board members and personnel in both companies
3. Several meetings with Investor
4. Tactical investigation as to possible "alert situations" or "alert phases" of the companies' development on the ground in Ghana
5. Testing of hypothesis and tentative ideas against relevant facts as informed by Investor
6. Meetings and dialogue with Company X (telephone meeting following an extensive list of questions being sent to Company X and further e-mail correspondence)

The facts obtained from Company X with the assistance of the Investor together with the information obtained via the internal preliminary investigation forms the basis of the current preliminary conclusions, c.f. Section 1.5 below.

2.5 Current conclusions

In the absence of a full external investigation these conclusions are of a preliminary nature:

1. Both companies are involved in Quote A: The Fofana-matter supposedly implicates both companies Perennial and Biofuel, at least if based on information from Company X. The prior understanding that this was a matter only related to a board member in Perennial has been a wrongful assumption. Activities on the ground in Ghana are allegedly a part of this matter.
2. Names: The information received from Company X names Mr. Finn Byberg, but with no evidence other than hearsay evidence. Furthermore, Company X has informed that the only possible link between Quote A and Perennial/Biofuel is Mr. Fassine Fofana. The source of Quote A has pointed to Mr. Fofana as the middle man. Mr. Trygve Refvem has himself openly and transparently informed the Board of Perennial of previous meetings with Mr. Fofana. No other Board members, Management or employees of the two companies have been named in connection with this investigation. On the contrary, Company X has explicitly confirmed that no other

names are relevant in terms of Quote A than Mr. Byberg and Mr. Fofana as far as Company X is concerned. Since Mr. Refvem is the only Board member in Perennial with a known link to Mr. Fofana, the investigation as of this date has only these two names available for further investigation. Please note, however, that the investigation does not conclude of any wrongdoing, please see below.

3. Total lack of evidence: We note that the information from Company X suffers from overwhelmingly insufficient evidence to trust any wrongdoing, be it in terms of documents in any form including phone records, documenting ingoing or outgoing calls to witness; specific timing; amount of money; source of money; other documentation evidence such as pictures, video, or any other; direct or indirect other witnesses; recipient of the money; bank account records, or any other forms of evidence whatsoever. The authors of this JIR are of the professional opinion that the evidence supported from Company X viewed together with any and all other available information, described briefly this JIR, is far from enough to support a final conclusion that any wrongdoings have taken place by Mr. Refvem or Mr. Byberg such as suggested by Quote A and the information from Company X. On the contrary, apart from one quote from an unknown source with a total lack of facts that may be verified or tested in a reasonable manner and what Company X itself has described as “uncorroborated evidence” against Mr. Byberg, we are not aware of any facts supporting the allegation of corruption within Perennial or Biofuel.
4. Assessment of available evidence: The issue for the authors of this JIR in short has been to review disturbing facts from Company X on one hand against facts from the internal investigation on the other hand, and in particular to make an independent and professional assessment of probability on this basis. The background for rejecting that Mr. Refvem and Mr. Byberg shall have been involved in any wrongdoing is in brief i) significant gaps in the received evidence, ii) lack of purported relationships; and iii) lack of evidence. No substantial evidence has been made known to the authors of this JIR. The only evidence is unverifiable hearsay evidence from Company X. We are in no position to make any judgment of the trustworthiness of the Source of “Quote A.” Company X is the only party in a position to do so. We are, however, able to provide our own judgment of the two individuals named as alleged participants in corruption-like practices. Furthermore, we are of the firm opinion that normal requirement of due process must apply to this process. These are extremely serious allegations indeed, and no conclusion pointing to named persons should be possible to be made without clear and sufficient evidence. After this investigative effort we have no basis whatsoever to conclude that the allegations are true. We base this – inter alia – on our collective length and depth of relation to them and our knowledge of their records in handling of operational and other matters of business responsibility at other times and in other circumstances. Further, key gaps exist between allegation in Quote A and statements from Mr. Byberg, Mr. Refvem and others. Mr. Refvem and Mr. Byberg both vigilantly deny having any part of any such action. Both Mr. Byberg and Mr. Refvem have submitted a willingness to testify under oath. There is no known relationship, professional or otherwise, between Perennial’s Board and Biofuel’s middle-management. Accordingly, as far as we are aware Mr. Refvem and Mr. Byberg does not know each other, has never discussed Biofuel’s business, has never met, has never travelled together and so forth.
5. No traces of other people involved: Extensive interviews have been conducted with all employees in both companies, and no one has ever been aware of any practices

amounting to corruption in Ghana or elsewhere. Even if accepting the allegations in Quote A we fail to see how Mr. Refvem or Mr. Byberg could pursue such methods without any involvement of any other persons in the two companies.

6. No motive: Taking into account that Management, Board, Investors and employees in the two companies ever since the incorporation and kick off of this project in Ghana has pursued ideas of sustainability and transparent corporate governance, and that any existing owners would pull out immediately if any signs of corruption had been made known to them, we fail to see why Mr. Refvem, Mr. Byberg, or indeed anyone else would see any benefits from actions such as mentioned by Quote A.
7. Surprising methods: We fail to see why Mr. Refvem, if involved in corruption such as alleged by the source, would discuss such matters on the phone with ordinary business contacts.
8. Background for Quote A: Taking into account that a source have informed Company X of Quote A and thus implicated both Mr. Byberg directly and Mr. Refvem indirectly, it is of vital importance to understand why this information may have been passed on to Company X. We can see no other explanation than that the source must have a hidden agenda. We can only speculate as to what such agenda might be.
9. Limitation of any further investigations: Perennial's other six Board Members are definitively not connected to the issue. This entire matter is only related to one person, a middle man named Mr. Fassine Fofana. No other persons are named as allegedly assisting Perennial and/or Biofuel with corruption like practices. Thus, any further investigation may safely focus only on Mr. Fofana.

2.6 Recommendations for next steps

Our opinion is that Perennial and Biofuel should aim to:

- a) Include the Investor and Company X in the further process of investigating Quote A. Based on normal Norwegian and international requirements of due process and normal business ethics it is totally unacceptable for this process to name one individual and imply another one without these two being able to clear their names and reputation. Further, it is completely unacceptable that two companies with approx. MNOK 50 being invested is seriously threatened due to this matter. We assume that the Investor and Company X at least would accept to read this JIR, provide for comments and to be a constructive part of a further process. We have suggested to Company X to compare phone logs with the source and Mr. Refvem but this had been denied due to legal personal privacy reasons.
- b) Provided that the owners will finance such step: Provide for a rapid but extensive investigation on the ground in Ghana, to ensure that existing licenses, authorizations and the like in Ghana have been obtained in a legal manner. This will effectively clear the two involved names and further will clear the reputation of the two companies and enable further financing and activity.

- c) If Quote A should lead to substantial losses, and if the companies are not able to finance independent investigation in Ghana, we recommend that this matter is reported to the proper police authorities for a full investigation. If this is the case, then all involved stakeholders and indeed the named persons would be entitled to a fair and public investigation with the privilege of availability to all sources, notwithstanding NDAs or similar.
- d) Under a scenario of continued operations, our recommended additional mitigating actions as outlined below in Section 5 below should be taken. Additional remedial actions should be evaluated, selected, and implemented, and a quite exhaustive list has been provided in Section 5. In short, any necessary measure will have to be taken to avoid any such speculations and allegation in the future.

3 Background

3.1 The corruption allegation

A corruption-allegation arose as a result of a process in which Investor (Investor) from mid-2008 until 4 February 2009 was considering an investment in Biofuel AS (Biofuel), a company where Perennial currently holds 35,63 % of the shares.

Specifically, Investor presented information to BF and PB in an in-person meeting on Friday 30 January 2009 which indicated the existence of a corruption-related issue in PB and – without clarity – possibly also in BF.

The following quote (Quote A) was presented in writing to the CEOs of Biofuel and Perennial at a meeting at Investor's facilities on the afternoon of Friday 30 January 2009:

"Mr XX is the man we use in order to maintain confidential contact to the Governments of the area. If we have been sure that it was possible to start our project in Country YY only with the contact we got from the Tribe we met, this was because Mr. XX brought us to a meeting with a member of a Commission that has the target to deregulate the whole licensing system in country YY. That man, I don't remember his name but he had eyeglasses, assure us that with a little bit of money everything would be alright. Mr XX asked us a sum, we paid it in an envelope, the man had a broad smile and said that we can consider us as his friends. Then Mr XX asked for 10% of that sum and we paid it despite of the fact that it was a very high fee, but we have been happy because we could start immediately with our work. This is the reason why I accepted to work with Mr XX in some other projects: he's a very (reputable) man in "various countries in the region", has a lot of connections and could be very relevant for our company in the near future."

Present at that meeting on behalf of Investor were Legal counsel and Integrity officials. In addition to issuing the written quote above to the two CEOs, Investor also informed them of the following via oral communication:

- This was information that "had been made known" to Investor;
- This information was "a matter of concern";
- The quote was a statement given by one of the Board members in Perennial;

- Mr. XX allegedly was a man named Mr. Fafana;
- A company with name EEG was a linkage; and
- Country YY allegedly was Ghana.

Investor's representatives denied disclosing whom of the 7 Board members that allegedly had made the statement, but did confirm that it was one of the 7 members of the Perennial Board of directors.

3.2 Why the matter had to be brought to the attention of Investor's CEO

The issue implicated the entire Board of Directors of Perennial, and in a manner that was highly unsatisfactory. The issue also had to be resolved extremely fast.

The manner was unsatisfactory because numerous attempts at coordinating a fact-based investigation with Investor's Integrity department went unanswered. The corruption-related allegations remain highly veiled and deeply wanting of key facts. A lack of cooperation from Investor's Integrity department combined with the impossibility of resolving grave allegations without professional and cordial cooperation from Investor, forced PB to bring this to the urgent attention of Investor's CEO on 9 February 2009. As a result, PB's owners finds it impossible to invest in Biofuel AS until the issue has received appropriate mitigating and remedial actions. Such actions can only fully be implemented with a full resolution of the allegation.

Moreover, the case risked becoming the cause for shutting down Biofuel AS. The case came at a most unfortunate time as Biofuel AS, due to its precarious and – as a result of this case, irresolvable – financial situation, was forced to call a meeting with its owners on Monday 23 February 2009. Unless the issue surrounding Quote A was resolved, Biofuel AS would have to be brought into bankruptcy in the week of 23 February 2009.

This is because Investor's service provider (Company X) has brought information of a very serious nature to Investor and PB and other owners of BF. However, as the information in Quote A was undated, geographically non-specified, and unnamed, it was impossible to act upon. As a result no investor – current or new – could possibly invest in BF. The issue may now therefore bring Biofuel AS into bankruptcy, and it has therefore quickly become a matter of extreme urgency to resolve the truthfulness of the allegation.

3.3 Summary of key issues:

- a) Cooperation with Investor was required in order to verify or clear allegations originally aimed at all members of Perennials board:
 1. Investor in fact opened hearsay evidence related to all the 7 members of the Board in Perennial by passing on information about alleged criminal actions by one and, to-date, undisclosed Board member. To let the accusations pass without some clarification by Investor would be completely unacceptable to Perennial's board members, be it as a group, as professionals, or as individuals;
 2. It is impossible to fully defend and be exonerated against unspecified allegations and thus is it necessary to clarify what these allegations will add up to at the end of the day;
 3. As the Board of Perennial consist of respected individuals with very high and visible profiles, for example the prior Minister of Oil and Energy in Norway, the

Chairman of a listed oil-company, etc., and further as the number of people in possession of this information of alleged corruption is growing each day, PB and BF were – and remain – extremely worried and un-easy about the possibility that these allegation soon will reach the public domain, and do so before the Board of Perennial has been able to get to the bottom of the case (it has been surmised that Investor's CEO would have similar concerns).

- b) The way the allegation handling makes it impossible to finance Biofuel AS:
1. Enclosed is a letter from First Securities ASA which clearly describes the predicament Investor handling of the allegations raised has put Biofuel AS into (enclosed in Appendix 1).
 2. As investors in Biofuel AS, Perennial is in a position where the company stands to lose a substantial investment due to unsubstantiated hearsay brought up by Investor, and by Investor's stonewalling of attempts to co-operate in investigating the context and validity of these accusations

4 Internal investigations to date

4.1 Summary chronology of internal investigation

The Board of Directors in Perennial was immediately informed of the corruption allegation made on 30 January 2009 (email enclosed as [Appendix 2](#)). Please find attached the Minutes of Meeting from Perennial's Board of Directors meeting held on 2 February 2009 (enclosed as [Appendix 3](#)). On 2 February 2009 the Founders of Biofuel AS also issued a statement in writing strongly rejecting the allegation ([Appendix 4](#)). Both the Minutes and the Statement were forwarded to Investor's Integrity department on the same day via e-mail ([Appendix 5](#)).

As it appears from Appendix 3, the Board of Perennial took these accusations of criminal actions very seriously, as:

- Each and every Board member rejected the allegations presented by Investor;
- None of the Board members had had any contact with anybody named Mr. Fafana and/or the company EEG (Note: These names were corrected on or about 4 February 2009 when Biofuel AS and Perennial became aware that the names correct spellings were "Mr. Fofana" and "EER");
- Perennial reported that it would investigate these allegations and that the company was willing to continuously report to Investor as such investigation progressed; and
- All Directors of the Board, of whom one of them indeed was accused of having stated "Quote A", demanded from Investor that the name of the person in question was disclosed to the Perennial Board as a necessary step in the process of either dealing with or invalidating (as the case may be) the allegation.

On 4 February 2009 Investor informed Biofuel AS of the decision not to go ahead with the proposed investment. Perennial had not received any information or comments from Investor prior to this date related to the corruption-allegation, on which the Board requested more information on 2 February 2009.

The Board of Perennial was indeed surprised to learn of Investor's investment-related decision, especially since it was made before any contact had been made between the relevant parties to

share information related to the corruption issue – Investor as a potential investor in Biofuel, and Perennial's Board of Directors, now accused of criminal activities in Ghana.

The Board would have had to assume that allegations of corruption could be relevant for the investment decision, and would have expected discussions with Investor prior to the investment decision was being made - in order to clarify whether and/or avoid that the investment decision being made based on wrongful facts.

The Board of Perennial urgently reconvened on 6 February 2009 (Minutes of Meeting enclosed as Appendix 5) and decided (in brief):

- Notwithstanding Investor's decision related to investing in Biofuel AS it was extremely important to the Board to promptly clear this issue up, and to do so as a stand-alone issue;
- The Board noted that the information received from Investor contained little specific and fully insufficient information to enable investigation of this matter;
- Accordingly, the Board assumed that professional, full, and expedient cooperation would be initiated by Investor immediately by disclosure of key facts and any other relevant information to Perennial - including use of Third Parties if appropriate to properly respect any issues of confidentiality; and
- The Board requested the CEO and Chairman of Perennial to meet with Investor's Integrity department urgently.

During 5, 6, and 7 February 2009 Perennial and Biofuel repeatedly tried to contact Investor's Integrity department via phone, cellphone, e-mails, text messages, and at their respective offices. However, it remained impossible to get in touch with the very persons we felt it appropriate to contact.

As a result Perennial's Board decided that it was necessary to elevate the matter to Investor's CEO.

4.2 Perennial informs Investor's CEO

The above is the background for contacting the CEO directly. As responsible for protecting the values of Perennial and Perennial's portfolio company Biofuel, Perennial's Management were compelled to contact the CEO directly for the following reasons:

1. Perennial's Board had immediately decided to fully cooperate with and inform Investor of any findings in the internal investigation;
2. Said investigation had produced the immediate and preliminary finding that the allegation of corruption is wrongful;
3. The Board of Perennial would have liked to inform Investor of the current status and moreover the next steps to be taken and to get Investor's comment on the proposed steps;
4. Investor had in fact opened hearsay evidence related to all the 7 members of the Board in Perennial by passing on information about alleged criminal actions by one and, to-date, undisclosed Board member and it is completely unacceptable to Perennial's board members, be it as a group, as professionals, or as individuals, to let the accusations pass without some clarification by Investor;

5. Without cooperation it would have been impossible to fully defend and be exonerated against unspecified allegations and thus is it necessary to clarify what these allegations will add up to at the end of the day;
6. As the Board of Perennial consist of respected individuals with very high and visible profiles, for example the prior Minister of Oil and Energy in Norway, the Chairman of a listed oil-company, etc., and further as the number of people in possession of this information of alleged corruption is growing each day, we are extremely worried and un-easy about the possibility that these allegation soon will reach the public domain, and do so before the Board of Perennial has been able to get to the bottom of the case (we surmise that Investor's CEO would have similar concerns); and
7. As responsible for protecting the values in Perennial and Perennial's portfolio company Biofuel it is necessary to re-establish communication with Investor in order for Perennial to investigate and later close this matter. Otherwise this matter will in a matter of a few days fully eliminate the chances of capitalizing Biofuel and indeed succeeding with the business model of Perennial.

4.3 Actions taken following PB's letter to Investor's CEO

As a result of the letter to Investor's CEO of 9 February 2009, PB was on 13 February 2009 invited to a dialogue which on 18 February 2009 concluded with the signing of a strict agreement of non-disclosure and other terms between Investor, PB, BF, and PB's and BF's selected third party representative, Kluge Advokatfirma DA. On strict terms of confidentiality and non-disclosure, this agreement gave Kluge the opportunity to access Investor's Service Provider ("Company X") to discuss the nature of the evidence behind Quote A.

In the evening of 18 February 2009, Kluge, PB, and BF collectively compiled a list of detailed questions relating to Quote A and sent this list over to Company X (Appendix 6). During the mid-morning of 20 February 2009, Kluge and Company X spent 2 hours going over the information in the possession of Company X.

In the afternoon and evening of 20 February 2009 Kluge, PB, and BF jointly interviewed the necessary members of the BF staff and the PB Board to understand more about their relationship with Quote A in light of the information offered by Company X. These interviews continued on 21 and 22 February, and together with statements and additional follow-up questions posed to Company X on 20, 21, and 22 February, form the basis for the conclusions that we up until the evening of 22 February have been able to make and which are stated herein.

5 Summary and interpretation of internal investigation evidence

5.1 Introduction

Since 30 January 2009 Perennial and Biofuel has worked extensively with an internal investigation involving key people in Biofuel AS and in Perennial Bioenergy AS (15 persons in all, including legal) to establish as many relevant facts related to Quote A as was possible given the time and extremely limited information provided.

As noted above, on 18 February 2009, Perennial's legal representative (Advokatfirmaet Kluge DA, represented by Mr. Thomas Abrahamsen, Esq.), the CEOs of BF and PB, and Legal Counsel in SH, signed a Confidentiality Agreement. This agreement enabled Kluge to initiate work with SH's Service Provider (Company X) to establish additional relevant facts related to Quote A.

5.2 Summary and interpretation of investigation evidence

- a) **Evidence indicated early-on that it is quite plausible that Quote A is unrelated to Biofuel's activities and unrelated to the country Ghana, but rather could be related to other companies' oil and gas or mining or telecoms-related activities in (a different country) for example Guinea or Guyana or Gambia.** First, this is due to the fact that Jathropa farming in Ghana does not require a "license" (as stated in Quote A) but rather a permit from the authorities. Second, it does not involve permitting from a "Commission" but rather from an Agency (The Ghana Environmental Protection Agency). Third, the phrase "licensing system" does not fit at all with Ghanaian agricultural terminology, but does fit well with standard E & P licensing systems, for instance in Guinea in the businesses involving for oil and gas drilling, as well as mining. Fourth, there has to our knowledge been no review of the current permit system in Ghana related to Jatropa farming. This is also contrary to the content in Quote A. Fifth, we have identified through open sources that there was a Norwegian company called Biofuel Energy ASA (now named Umoe Bioenergy ASA) whose key investor (Umoe Invest) also is associated with one or possibly two West-Africa based mining operation, Crew Gold (and possibly Crew Minerals, now associated with Intex Resources), both of whom are or were operating in Guinea. This company Biofuel Energy ASA (now named Umoe Bioenergy ASA) is not related in any manner to Biofuel AS, but has, together with the linkages to the country Guinea, not far from Ghana, obvious potential for a mix-up of company facts and/or allegations. Based on the above, we would very much like to clarify that Investor or Company X have not simply mixed Ghana and Guinea or Biofuel Energy ASA with Biofuel AS. **Please note that Company X has rejected that any mix up has happened. Based on information from Company X, it is no risk that the IDD confuses Biofuel or Perennial with other companies.**
- b) **The investigation has only come up with one name that might be with investigating further.** Mr. Gerhardt Ludvigsen, who has done much work in Eastern Africa related to non-profits and whom is generally believed to be reputable, has been in some sort of dispute with Biofuel AS. Mr. Ludvigsen has assisted First in work related to petroleum-licenses, and had, without any formal contract with Biofuel AS, signed contracts for land in South-Eastern Ghana on behalf of a company with the name Biofuel AS. When presented with these contracts, Biofuel AS immediately rejected these contracts due to the lack of formal mandate to do this work for the company. Biofuel AS's Management has no reason to believe this issue is related to Quote A, and certainly not with the allegation that Mr. Ludvigsen should have been involved. Nevertheless, whenever such allegations are brought up, it would be appropriate to investigate any persons who have purported to act on behalf of Biofuel, especially since Biofuel has no control over what has been stated on behalf of Biofuel in said process. The recommendation is to pursue this name with Company X, in order to try to conclude whether or not Mr. Ludvigsen might be involved. Company X has yet to respond to this follow up question.

- c) **TIMING: All links to any “Mr. Fofana” are prior to Perennial’s involvement with Biofuel AS and its Ghana operations.** A Mr. Fassine Fofana that we have been able to identify and later on verify as most likely the right ‘Mr Fofana’ is ‘Mr. Fassine Fofana,’ and has the following resume; *“Advisor, VP Government Relations (54) is a chemical engineer (Toulouse, France) with an MBA from INSEAD, MSc in Financial Economics from University of London and Advanced Management Program at Harvard Business School. He was Minister of Mining & Energy in Guinea from 1994-2000 and Secretary General for Central Bank of Guinea from 1991-1994. He previously held Chairmanship positions in resource companies (gold and bauxite mining and alumina refining) and held strategic planning role with Cummins Engine Company the US based diesel engine maker. From 1996 to 2000 he was a member of the governing board of the African Development Bank. He has worked as a consultant since 2000 and joined Energy Equity Resources (EER) in 2004.”* Mr. Trygve Refvem, one of the Board members in Perennial, has had one meeting at which Mr. Fassine Fofana also was present. This meeting was in London in 2006 in connection with Mr. Refvem being advisor for the energy company Energy Equity Resources (EER). Mr. Fofana was then a non-executive Board member of EER. However, Mr. Trygve Refvem could not possibly have discussed Ghana, Biofuel AS or any matter related with Jatropha farming with Mr. Fofana at that time. This is because his involvement at Biofuel AS begun in or around May 2007. Moreover, Mr Refvem has not had contact with Mr. Fofana either before or after said meeting in London. Mr. Refvem was last in Ghana in 2003 on business completely unrelated to biofuels; long before Biofuel AS actually existed; and has therefore not been to Ghana (or Guinea) on business for neither Biofuel AS nor Perennial Bioenergy AS. No other link between any Mr. Fofana and other Board members of Perennial has been discovered.
- d) **One interpretation of Quote A is that Mr. Refvem allegedly being a witness on the ground in Ghana after commencing operations. This is impossible due his not having been in Ghana since 2003:** We do not find it believable that Quote A can be linked to Mr. Refvem as a witness as mentioned hereinabove. This is because Quote A states the following, where the underlined text clearly indicate that the witness (Mr. Refvem) was observing this as part of an on-the-ground meeting in Ghana: *“If we have been sure that it was possible to start our project in Ghana only with the contact we got from the Tribe we met, this was because Mr. Fofana brought us to a meeting with...”; “... That man, I don’t remember his name but he had eyeglasses, ...”; “...we paid it in an envelope, the man had a broad smile, ...”; “... we paid it, despite of ...”;*
- e) **Mr. Refvem’s engagement with this issue is highly improbable due to the absence of motive.** We are hard pressed to find a sound motive for Mr. Refvem’s alleged engagement as a witness in Quote A. It is difficult to imagine why financial or ideological or other reasons for why Mr. Refvem would have single-handedly engaged in the manner of a witness in this instance. If Perennial, Biofuel or any involved persons had known about any such meetings, this would have caused immediate dismissal from the Board of Directors. The same would apply to Mr. Bybergs position as an employee in Biofuel.
- f) **Mr. Refvem’s engagement with this issue is highly improbable due to the use of a telephone conversation to convey this to someone.** We also find it hard to believe that someone of Mr. Refvem’s experience and intelligence would have discussed this over the phone with anyone.

- g) **Mr. Refvem's engagement with this issue is highly improbable due to the absence of known a link to the Source.** Mr. Refvem states that he has not discussed Biofuel or Perennial with anyone who may be the source (a senior business/political person extremely knowledgeable on Ghana).
- h) **There is so far no evidence presented that anyone in Biofuel has engaged in or that there is a culture of engaging in wrongful acts such as that described in Quote A:** Absence of any evidence in BF of any wrongful act with any public official. Finn Byberg categorically rejects the notion that he somehow is involved in this, and is willing to testify under oath that this is the case.

6 Summary and interpretation of external investigation evidence

6.1 Introduction

On 18 February 2009 a list containing a comprehensive set of questions to Company X was submitted by Kluge to the designated representative of Company X. This list of questions was compiled by the two CEOs and Kluge. The list is reproduced in Appendix 6.

From the results of the answers to the questions, Kluge and Company X's representative have compiled the following communicable information relating to evidence surrounding Quote A:

6.2 Background

A major investor (the Investor) has been contemplating an investment in Biofuel AS (Biofuel). For reasons of confidentiality the name of Investor may not be disclosed. The Investor has used the services of Company X to complete an Integrity Due Diligence check (IDD) of Biofuel, its shareholders, key management and Board of Directors.

The IDD resulted in the so called "Quote A" being disclosed by the Investor to Perennial Bioenergy AS (Perennial) and Biofuel. The Board and Management of Perennial and Biofuel immediately thereafter started working with investigating Quote A in order to learn all relevant facts related to Quote A and possibly to close this corruption matter in a period critical for both companies. Hence, Perennial is currently conducting an internal investigation into the so called "Fofana"-matter jointly with Biofuel AS (Biofuel). This internal joint investigation is to be summarized in a Joint Report (JOR), to which this Executive Summary is an Appendix.

Kluge Advokatfirma DA (Kluge) was assigned to contact Company X on behalf of Perennial in order to obtain information and to provide legal advice in connection with the JOR. Kluge has in agreement with all involved parties signed a Non-Disclosure Agreement (NDA), according to which all information to be released shall be approved by Company X. Accordingly, this Executive Summary has been approved for release to Management, Board of Directors and Shareholders in Perennial and Biofuel, provided that all parties accept to maintain any and all information in this Executive Summary and the JOR strictly confidential.

6.3 The IDD executed by Company X

Company X has informed of the following standard procedure in connection with the IDD:

- Accepting a Due Diligence assignment from the Investor with a defined mandate, timeframe and scope of work;
- Using available public databases, corporate documentation and open and confidential sources to compile and present a written IDD report to the Investor, where after the Investor had several follow up questions related to preliminary findings in the IDD; and
- Clarification, confirmation and then reconfirmation of certain critical pieces of information in the IDD, including in particular Quote A.

Company X has informed that the sources used, both in general and in this particular case, are knowledgeable and trustworthy and with in depth local expertise in the country in question (in this case Ghana). Further, it has been stressed that Company X has not brought forward any accusations, alleged facts or any of the like. Company X has merely reported to the Investor findings of the IDD conducted. Company X is an independent firm within the field of Business Intelligence, and has no interest in the outcome of the Fofana-matter whatsoever or in the Investor's investment decision. Finally, Company X has underlined that Company X does not provide legal advice and do not conclude on the legal status of facts and findings presented to its client. Hence, Company X has never concluded that Quote A represents criminal acts.

6.4 Summary of facts provided by Co X

A source, whose identity has been vigilantly protected by Company X, has stated that a Board Member of Perennial on the phone during 2008 has stated Quote A to such source. Quote A refers to a payment from Perennial or Biofuel assumed by the source to have taken place during 2008 strongly indicating corruption. Quote A is understood by the source to relate to Biofuel and Perennial and the particular Jatropa business on the ground in Ghana conducted by Biofuel.

The paid official is allegedly a public official in Ghana or an individual with the capability to influence the furthering of Biofuel's business in Ghana. The middle man in Quote A is allegedly Mr. Fassine Fofana. Neither the tribe nor the commission in Quote A has been identified by the source and was not specified during the conversation between the source and the Board Member. The alleged money transfer took place either in Ghana or in London. The source has mentioned only one other name, Mr. Finn Byberg, as a person that "would likely be aware of this meeting (described in Quote A) or of transfer of money occurring".

Company X has no record of any other persons on a list presented by Kluge (consisting of any known persons in or connected with Perennial or Biofuel) being involved in any practices of corruption.

There is no risk of the IDD confusing Biofuel and Perennial with other companies/entities with similar names or within the same industry. Contact with sources have been mentioning names of particular persons connected to Biofuel or Perennial and not simply referring to the biofuel business or the company names involved.

It has been mentioned to Company X by other credible sources that a possibility exists that there may have been instances involving Biofuel in which payments like this may have been made. However, due to lack of detail available relating thereto, Company X cites this as uncorroborated rumours. The one witness statement made by the confidential source and these rumours indicated by other sources is the only evidence of corruption known to Company X. Company X has not obtained documents showing corruption, investigated money transfers, cash flows, transcripts from bank accounts or performed any other regular investigation into Quote A, other than working extensively with what is being considered credible sources. Such additional investigation would clearly fall outside the scope of the assignment of delivering the IDD. “

* * *

7 Advice from CEOs to Owners on road ahead

7.1 Introduction

It is our joint view that an appropriate set of mitigating actions has been taken so far.

However, a very important set of additional mitigating actions, along with remedial actions, must also be taken going forward.

Both companies fully recognize that it is only when the remedial actions are in place that the two companies may, with full credibility, be able to solicit new partners. In this setting new partners, financial or otherwise, will be able to defend their new relations to the companies. We believe this is the most efficient way forward, even though it might at first sight appear costly in terms of capital, time, and reputation.

As a result, this report by necessity discusses some aspects of the anti-corruption work that must occur going forward in the two companies (obviously this assumes continued operations).

7.2 Mitigating actions

Mitigating actions have been taken and will continue to be taken. This JIR is part of our set of mitigating actions that have happened to-date.

Going forward, and specifically related to the Quote A issue, we will consider the options ahead of us carefully. These options relate to attempting to dismantle the allegation presented in Quote A.

Option 1:

The preferred option is to try to persuade Company X and Investor to accept that the gaps in this issue are too large for there to be grounds for upholding the validity of Quote A on the grounds of this JIR. If the Investor and/or Company X could simply withdraw Quote A, on the basis that this piece of information seem to lack the weight necessary to uphold the Quote and the information, both Perennial and Biofuel could close this issue once and for all. We would like to express our concern as to a business practice in which unverifiable hearsay evidence put forward by secret sources may form the basis of a “live or let die” decision by Boards or

shareholders. No person or company should be forced to accept a process without any contradiction, due process or normal rules related to burden of proof.

Option 2:

The second-best option will be to dismantle Quote A by performing a 1-3 week on-the-ground investigation, possibly in collaboration with Company X. The first place to begin is possibly a check of the phone-records of the Source at the appropriate date that the conversation with the witness (Mr. Refvem) allegedly happened, followed by a check of Mr. Refvem's records should there be a call placed to his phone at the relevant time.

Option 3:

Beyond dismantling the allegation, with or without the help of Investor and Company X, one must consider the option of going to the police.

7.3 Remedial actions

Remedial actions are actions that are intended to permanently prevent an occurrence such as that in Quote A from happening. These are actions that should occur whether or not Quote A in fact happened because it is in the common interest of all shareholders to ensure that the resources available to the companies are spent as few future mitigating actions as possible.

Without implying their absence today, examples of such actions may include:

- Establish new and improved ethical guidelines
- Require an orientation for each employee every other year, where participants are tracked and dodgers pursued
- Department-specific 'Business Practice Review' meetings for internal discussions focusing on situations of practical and applicable nature and what to do about these, with submission of written reports
- Establish a formal anti-corruption program of training of the organization and its staff
- Obligatory background-check of new hires and Board members
- Establish integrity due diligence routines for counterparties and consultants of any kind
- Establish an internal whistleblower-program
- Establish clear accounting, controller, and auditing standards
- Make different and named people responsible for, respectively, good business practices and auditing of these, e.g. make a list of all bank accounts and that none may be used without two signatures; required annual review by the Board and auditor; special rules for establishment of subsidiaries and for usage of financial instruments; prohibit giving guarantees; etc.
- Zero-tolerance and post-mortem control of senior management, e.g. travel reimbursements.
- Above a certain level, sign off on a declaration stating that one is familiar with the company's rules for ethics and policies around these. For especially exposed staff one may make separate arrangements, eg. Relating to Foreign Corrupt Practices Act or the Norwegian Law's global corruption rules.

- Top management annually sign off on declarations that all the arrangements that have been chosen are in place and actually implemented.
- Board must on continuous basis expose these areas to follow-up and prodding. Consider separate Board Ethics Committee.
- Establish routine checks on suppliers and their under-suppliers, for example with a clause in contracts stipulating unlimited rights to audit these.

Appendix 6 – Questions posed to Co X, dated 18 Feb 2009

Questions posed to StatoilHydro ASA Business Integrity Dept's Service provider (Company X), on 18 February 2009

NO.	QUESTIONS TO COMPANY X RELATING TO QUOTE A	ANSWERS FROM COMPANY X (please identify under each item below if answer may be released to Perennial/Biofuel)
1.	Question Area 1: Relating to "The Allegation" made by Quote A	
1.1.1	Where did the alleged money transfer take place? (Political Country and exact location in Country)	
1.1.2	If the alleged money transfer is supposed to have occurred in the Political Country by name Republic of Ghana, is Company X absolutely certain to the degree of 100% that there is no potential whatsoever for any confusion with the either of the two other Political Countries by the names Guinea and/or Gambia? Why or why not?	
1.2	When did the alleged money transfer take place? (I.e., time and date of the money transfer described in Quote A)	
1.3.1	What is the magnitude of the money transfer? How much money exactly?	
1.3.2	Is the money allegedly paid in a currency that is local or foreign to the Country in 1.1.1?	
1.4	Are there other sources of information or evidence indicating corruption-like practises in Biofuel AS or Perennial Bioenergy AS beyond Quote A? If yes, please list.	
1.5.1	Is there a presumption that the act described in Quote A is a criminal act?	
1.5.2	If yes, why?	
1.5.3	In which jurisdiction and under what applicable law would this be a criminal act?	
1.6.1	Can you provide us with an estimate of actual hours spent on verification of the allegation issue before Friday 30 th of January 2009?	
1.6.2	Would this estimate be verifiable upon examination of billing in StatoilHydro's billing-records?	
1.7	Can you summarize as much as possible the process of verifying the truthfulness of Quote A?	
1.8	Which "Governments" does Quote A refer to? (I.e., political jurisdiction; national, regional, local, tribal, other)	
1.9	Which "Tribe" does Quote A refer to?	
1.10	Where is this "Tribe" located? (Political Country)	

	and exact location in Country)	
1.11.1	Which “Commission” does Quote A refer to? I.e., What is the full name of the Commission? Is the Commission related to industries, e.g., mining, oil, gas, etc, or to other activities?	
1.11.2	What is the function of the Commission? E.g., is it a regulatory one or does it have some other function?	
1.11.3	Is the Commission a private or public entity?	
1.11.4	Is the Commission a tribal/traditional entity?	
1.12	In Quote A, which industry is allegedly being “de-regulated”?	
1.13	Which “licensing system” is Quote A referring to?	
1.14	What specific Company is the witness/source of Quote A referring to when stating “could be very relevant for our company in the near future”?	
1.15	What specific geographic “region” is the witness/source of Quote A referring to when stating “various countries in the region”?	
1.16	What is the specific and general nature of the “work” being referred to by the witness in the passage: “...because we could start immediately with out work.”? I.e., is this work related to industries, such as mining, oil, gas? Or is the work related to entirely different activities?	
2.	Question Area 2: Relating to “The Witness”/The Source (I.e., the person who has stated Quote A)	
2.1	Is the name of the person providing the statement in Quote A – the Witness – on the Board of Directors of a company by the name of “Perennial Bioenergy AS”? (For names of the seven (7) Directors, please refer to www.perennialbioenergy.com)	
2.2.1	Who has made Quote A? I.e., we ask for the full name of the person providing the statement in Quote A? (I.e., the name of the Witness)	
2.2.2	Is the Source of Quote A – i.e., the Witness – a source that you – Company X – can reasonably trust to provide accurate and truthful information? Why or why not?	
2.2.3	Based on your answer to 2.2.2, would it with the information on the hands of Company X, ever be possible to verify the accuracy of the claims made as to who is the Source (i.e., who is the Witness) of Quote A? If so, how may Perennial Bioenergy AS /Biofuel AS proceed to investigate this to the full extent?	
2.2.4	Based on your answer to 2.2.2, would it with the information on the hands of or Company X, ever	

	be possible to verify the 100% accuracy of the claims made in Quote A itself? If so, how may Perennial Bioenergy AS /Biofuel AS proceed to investigate this to the full extent?	
2.3	When was Quote A made? (I.e., time and date)	
2.4	When was Quote A received by Company X? (I.e., time and date)	
2.5	To whom is Quote A stated? (Person and Employer)	
2.6	How was Quote A conveyed to you (by phone, in person (if so where), by mail, other)?	
2.7	In what context was Quote A made?	
2.8	Is the allegation and Quote A based on information received from a witness that can be characterized as a whistleblower?	
2.9.1	If yes, is this whistleblower external to – but referred to the Company X – by StatoilHydro? Or is this whistleblower from within StatoilHydro?	
2.9.2	If not a whistleblower, how did you as service provider to StatoilHydro come to know or link up with the Witness?	
2.10.1	Could the Witness in Quote A in your opinion be considered as having participated in a criminal act?	
2.10.2	If the Witness could be considered as having participated in the criminal act, has she/he got immunity from further prosecution?	
2.10.3	If immune, why?	
2.10.4	If immune, under which Law or Legal System is there immunity granted?	
3	Question Area 3: Relating to “The Source of Money” (I.e., the party allegedly paying for illegal services in Quote A)	
3.1	Who is the Source of the Money? (Name(s) of Company and person) Is Perennial Bioenergy AS or Biofuel AS the Source of the Money?	
3.2.1	Is there evidence that the person issuing the money works for the Company in 3.1?	
3.2.2	If so, what is the evidence for an employer-employee relationship in 3.1?	
3.3	Are there other possible money transfers, not linked to the incidence with the envelope, that should be the focus of the ongoing investigation?	
4	Question Area 4: Relating to “The Bribed” (I.e., the party allegedly receiving money in return for possible illegal services in Quote A)	

4.1	Who is it? (Company and person)	
4.2.1	Is there evidence that the person receiving money in any way would be required to interact via the provision of publicly sanctioned services with the Company and/or Person paying for the illegal services as in 3.1?	
4.2.2	If so, what is the evidence for such a requirement for interaction?	
4.3	Are there other possible money transfers known to Company X involving Perennial Bioenergy AS, Biofuel AS or any involved persons in those companies, not linked to the incidence with the envelope, involving the Briber? If so, please describe which transfers and who involved.	
5	Question Area 5: Relating to "The Middle Man" (I.e., the party allegedly receiving a cut of the money paid in return for illegal services in Quote A)	
4.1	Who is the Middle Man? (Name(s) of Company and/or person)	
4.2.1	Is there evidence that the Middle Man works for the Company in 3.1?	
4.2.2	If so, what is the evidence for such an employer-employee relationship?	
4.3	What is the magnitude of the cut of the money transfer?	
4.4	Is the Middle Man and the Witness one and the same person?	
4.5	Is the Middle Man – the person receiving the cut – the same person as that Mr. Fassine Fofana whose biographical summary and whose photograph is reflected in Exhibit 1?	
4.6	Does Company X have evidence of other middle men related to the business in Perennial Bioenergy AS or Biofuel AS?	
6.	Question area 6: Relating to the involvement of the company with the legal and registered name "Biofuel AS" (Company no. 991 537 201)	
6.1	Is the legal company entity "Biofuel AS" an involved party in any way whatsoever in the act described by Quote A?	
6.2.1	With reference to your long term experience with intelligence issues, is there clear evidence that officers and/or staff and/or affiliates of the company by the exact name "Biofuel AS" is involved in the act described in Quote A? If yes, which of officers and/or staff and/or affiliates is it?	
6.2.2	With reference to your long term experience with	

	intelligence issues, is there clear evidence that officers and/or staff and/or affiliates of the company with a name similar to and/or a derivative of "Biofuel AS" is involved in the act described in Quote A? If yes, which of officers and/or staff and/or affiliates is it?	
6.3.1	Is it possible that the company "Biofuel AS" and/or is wholly-owned subsidiaries "Biofuel Africa AS" and "Biofuel Africa Ltd" could have been mistaken for any of the following known companies:	
6.3.2	Biofuel Energy AS	
6.3.3	Biofuel Invest AS	
6.3.4	Scanfuel AS	
6.3.5	Crew Gold	
6.3.6	Wega Mining	
6.3.7	Intex Resources	
6.3.8	Mwana Africa Plc	
6.3.9	What has Company X done to prevent mix ups with other companies with similar names and with connections in Norway?	
7.	Question area 7: Relating to the involvement of the company with the legal and registered name "Perennial Bioenergy AS"	
7.1	Are officers and/or staff and/or affiliates of the legal company entity "Perennial Bioenergy AS" an involved party in any way whatsoever in the act described by Quote A?	
7.2.1	With reference to your long term experience with intelligence issues, is there clear evidence that officers and/or staff and/or affiliates of the company by the exact name "Perennial Bioenergy AS" is involved in the act described in Quote A? If yes, which of officers and/or staff and/or affiliates is it?	
7.2.2	With reference to your long term experience with intelligence issues, is there clear evidence that officers and/or staff and/or affiliates of the company with a name similar to and/or a derivative of "Perennial Bioenergy AS" is involved in the act described in Quote A? If yes, which of officers and/or staff and/or affiliates is it?	
8.	Question Area 8: Relating to Other Possible Persons that may have been involved	
	Are any of the persons listed below in any way whatsoever involved in the allegation of corruption? If yes, who? (Please also indicate any	

	person(s) with names having spelling(s) similar to the names listed below:	
	Francis Boateng	
	Daniel Kodjo	
	Mumin Sulifur	
	Adam Awal	
	Gerhard Ludvigsen	
	Sam Anchra	
	Steinar Kolnes	
	Arne Helvig	
	Finn Byberg	
	Per Agnar Moen	
	Hans Petter Myhre	
	Johan Fredrik Dahle	
	Odd Even Bustnes	
	Bjørn Tjomsland	
	Robert Moss	
	Timothy Leighton Anderson	
	Tim Anderson	
	Mark Davis	
	Andrew Tillery	
	Kjell Roland	
	William Lese	
	Thor Hesselberg	
	Agnar Gravdal	
	Ole Njærheim (Njaerheim)	
	Stacy Hendricks	
	Mike Oquaye	
	Prof. Mike Oquaye, Minister of Energy	
	Anthony Tengey Djokoto (Tony), Legal Manager, AngloGold Ashanti	
	John Owusu, GM - Corporate Affairs, AngloGold Ashanti	
	Kwaku SA Akosah-Bempah, Special Assistant To Chief Executive Officer, AngloGold Ashanti	
	William Bannerman, Agronomist, AngloGold Ashanti	
	David Renner, Managing Director AngloGold Ashanti (Iduapriem) Ltd	
	Daniel M. A. Owiredu, Deputy Chief Operating Officer (Africa), AngloGold Ashanti	
	Ernest Abankroh, Country Manager, Ghana, AngloGold Ashanti	
	Kwasi Amoa, Head, Information Technology-West Africa Region, AngloGold Ashanti	
	Kwaku Antwi-Boasiako, Corp. Executive Human Resources, AngloGold Ashanti	
	Yaw Boadi, Senior Manager, AngloGold Ashanti (Bibiani) Limited¨	

	Elvis Harlley, Head, Internal Audit, AngloGold Ashanti	
	Daniel Osei-Bonsu, Environmental Service Manager, AngloGold Ashanti (Ghana) Limited Obuasi Mine	
	Daniel Johannes Spies, Managing Director, AngloGold Ashanti	
	Martin Ahorney, Ashanti Goldfields Company Limited	
	JOYCE R. ARYEE. FIPR, CHIEF EXECUTIVE OFFICER for The Ghana Chamber Of Mines Introduced by Anglogold.	
	Chris Anderson, Director, External Affairs, Newmont Ghana Gold Limited	
	William M. Zisch, Vice President, Newmont Ghana Gold Limited	
	Bruce Higson-Smith, General Manager-Bogoso/Pretea, Bogoso Gold Limited	
	Ibrahlma Danso, Managing Director, ALCOA - Ghana Bauxite and Alumina Co. Ltd.	
	Anthony A. C. Andoh, Director, EPA Environmental Protection Agency	
	Ebenezer Appah-Sampong, Deputy Director, EPA Environmental Protection Agency	
	Abu Iddrisu, Director, EPA Environmental Protection Agency	
	Edward Mango Telly, Director (Northern Region), EPA Environmental Protection Agency	
	Ahmed, MOFA.	
	POTENTIAL LOCAL INVESTORS	
	Ras Boateng, Deputy Director General, Security & National Insurance Trust	
	KOFI AMPONG MGH. I. S, Head of Properties Management Dept., SSNIT Social Security & National Insurance Trust.	
	COMPETITION	
	Jojo Frimpong-Boateng, Business Developer, Gold Ray BioDiesel	
	POLITICS:	
	Alhaji Aliu Mahama, former Vice president of the New Patriotic Party < http://en.wikipedia.org/wiki/New_Patriotic_Party > (NPP)	
	John Dramani Mahama, is the Vice-President < http://en.wikipedia.org/wiki/Vice_President_of_Ghana > of Ghana following the 2008 election < http://en.wikipedia.org/wiki/Ghanaian_presidential_election,_2008 >	
	Alhaji Mustapha Ali Idris, regional minister, northern region	

	Abraham Dwuma Odoom, Deputy Minister, MINISTRY OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT & ENVIRONMENT	
	Hon. Hackman Owusu-Agyemang MP, MINISTER FOR THE INTERIOR, Member of the Parliament, New Juaben North	
9	Does Company X possess any other information that might be of use to either Perennial Bioenergy AS or Biofuel AS in order to investigate or close this issue as soon as possible?	
9.1	Does Company X know of any mitigating actions, remedies, methods etc. that would enable the two companies to deal with this in a prudent manner?	

Exhibit 1**Biography of Mr. Fassine Fofana**

Non Executive Director



ffofana@carbon-red.com

Fassine Fofana is a chemical engineer with an MBA from INSEAD, an MSc in Financial Economics from University of London and who has passed through the Advanced Management Program at Harvard Business School. He was Minister of Mining & Energy in Guinea from 1994-2000 and Secretary General for Central Bank of Guinea from 1991-1994, a post which gave him responsibility for the Government's relations with major mining groups including Alcoa, Rio Tinto, BHP Billiton, Reynolds Metals and De Beers.

He has also held positions including Chairman of the Board of Compagnie des Bauxite de Guinee and Societe Miniere de Dinguiraye and Friguia (Africa's first alumina refinery). In addition, he held a strategic planning role with US-based diesel engine maker Cummins. From 1996 to 2000 he was a member of the governing board of the African Development Bank.

He is a founder and director of Carbon Reductions and is helping to identify and maintain relations with suitable local commercial partners for the company as well as advise on Government and Municipal relations.

Stavanger Aftenblad

TIRSDAG 24. FEBRUAR 2009 Uke 9, Nr. 46

117. årgang Løssalg: kr 20,00 (Lever hjem fra kr 7,20)

Aftenbladet.no

FASHION-KVARTALET

STAVANGER: Frida Simonsen, til venstre, og Elin Theresa Birgisson ser inn i butikken Min lille verden.



LOKAL
2. DEL side 2-3

Bryne-spillerne godtar lønnskutt

SPORT 1. DEL side 28



– Samme suppa bare du har mørkt hår

ISLAMIFISERING: Hasan Zorlu mener Siv Jensen ikke gjør det lettere å være utlending i Norge.

POLITIKK
1. DEL side 10 og 11
LEDER 1. DEL side 2

” Av de mange tingene du ikke burde interessere deg for, ligger Oscar i øverste ti-sjiktet.

Journalist
Arild Abrahamsen

KULTUR
2. DEL side 22

StatoilHydro mistenker biooljeselskap for korrupsjon

AFRIKA: Stavanger-baserte Biofuel AS disponerer store områder for produksjon av bioolje i Ghana. Mistanken om korrupsjon oppsto da StatoilHydro vurderte å gå inn i selskapet. Under en omfattende gjennomgang slo innleide korrupsjonsjegere alarm.

NYHETER

1. DEL side 4 og 5

Nyheter

Se også: aftenbladet.no

Nyhetsredaktør: Carl Gunnar Gundersen, Tlf. 922 24 276. Epost: tips@aftenbladet.no

Pollensesongen er i gang

TIDLIG: Selv om snøen ligger flere steder, har startskuddet for årets pollensesong gått. Både på Østlandet og Sørlandet er det meldt om spredning av pollen både av hassel og or. Så lenge det ikke regner, kan pollen spre seg. (NTB)



NÆRBØ-RAN: Rettssaken mot de fire unge mennene som februar 2007 ranet en Mix-kiosk på Nærbø, ruller videre. Dommen fra lagmannsretten ble anket videre til Høyesterett, og er berammet til 2. april.

Korrupsjonsmistanker mot

StatoilHydro mistenker et Stavanger-basert biooljeselskap for korrupsjon i Ghana.

Arnt Even Bøe
Camilla Bjørheim

JATROPHA: Den meget spesielle saken begynte da StatoilHydro vurderte å gå inn i det Stavanger-baserte selskapet Biofuel AS som satser på biooljeproduksjon i Ghana. Biofuel AS disponerer enorme områder i det afrikanske landet hvor det har plantet ut den oljeholdige og hardføre jatropha-busken.

Som vanlig ble det i forkant av den mulige emisjonen satt i gang en omfattende gjennomgang (Due diligence) av Biofuel AS. Eventuelle skjeletter i skapet skulle avsløres. I denne prosessen skal StatoilHydro ha kommet over opplysninger om bestikkel-

PERENNIAL: Så vidt Aftenbladet forstår skal den angivelige korrupsjonen ha foregått på Biofuels vegne, men kilden til opplysningene skal sitte i et annet norsk biooljeselskap, Perennial Bioenergy som eier 36 prosent av Biofuel. Begge selskapene har hovedkontor i Stavanger.

Opplysningene StatoilHydro har fått skal gå på ett av Perennials sju styremedlemmer. Vedkommende skal ha fortalt at han var med og betalte penger til en sentral plassert person i Ghana.

Personen som fikk pengene skulle etter dette sørge for at Biofuels arbeid mot myndighetene gikk lettere slik at de nødvendige tillatelsene kom raskt på plass. Ifølge det angivelige utsagnet fra styremedlemmet fikk den ghanesiske kontaktpersonen et større pengebeløp.

KJENTFOLK: Når mistanken går på at ett styremedlem i Perennial har beskrevet og deltatt i korrup-

PERENNIAL-STYRET

STYRET: Styret i Perennial Bioenergy (tidligere Norfuel) består av følgende sju medlemmer:

JOHN PETER HERNES: Styreleder i Perennial og Høyres tidligere leder for kommunalstyret for oppvekst i Stavanger. Sitter nå i bystyret. Jobbet tidligere som daglig leder i Sårkom Invest Management.

THORHILD WIDVEY: Tidligere olje- og energiminister i Bondevik II-regjeringen, nå sentralstyremedlem i Høyre. Har også sittet på Stortinget.

LARS TAKLA: Tidligere Phillips-sjef i Norge, gründer og styreleder i Noreco, styreleder i DNS-stiftelsen og tidligere styreleder i IRIS.

JOACHIM COCK: Investeringsdirektør i energiselskapet Hafslund som er medeier i Perennial.

TRYGVE REFVEM: Tidligere konserndirektør i Norsk Hydro, direktør i Hydro Agri og i Hydro Olje og Gass. Er nestleder i Gassco-styret. Arbeider som fristående rådgiver.

KRISTIAN TANGEN: Gründer og partner i analyse- og kvotehandels-selskapet PointCarbon AS.

ROLF SELOTTER: Tidligere daglig leder i det privateide Rogaland Vekst.

Mistenkt styremedlem avviser anklagene

sjon, involverer det meget sentrale og kjente personer innen politikk og næringsliv.

Blant styremedlemmene i Perennial er tidligere Høyre-topp i Stavanger kommune, John Peter Hernes, tidligere olje- og energiminister Thorhild Widvey (H), tidligere Phillips-sjef og nåværende styreleder i Noreco, Lars Takla og tidligere Hydro-direktør Trygve Refvem.

Det spesielle i saken er at mistanken går mot en person som ikke er direkte involvert i selskapet som beskyldes for korrupsjonen. Perennial er riktignok største aksjonær i Biofuel AS, men spørsmålet er hvorfor et styremedlem fra det ene selskapet skulle utføre bestikkelser for det andre?

Tausheten StatoilHydro nå omgir saken med, gjør det vanskelig

å få vite hvor selskapet har anklagene fra. De kan være et resultat av overvåking eller etterforskning – eller av en samtale StatoilHydros kilde har overhørt eller tatt del i.

KORRUPSJON: Det er uansett ingen grunn til å anta at StatoilHydro tyr til lettvintheter når nye prosjekter eller samarbeidspartnere skal sjekkes ut. Sel-

skapet er som kjent bodelagt i USA for korrupsjon og fortsatt under spesiell overvåking etter Iran-skandalen. Den førte til at daværende konsernsjef Olav Fjell måtte gå i 2003.

Også den såkalte Libya-affæren har skjerpet konsernsjef Helge Lunds årvåkenhet. Denne saken dukket opp under fusjonen mellom Statoil og Hydro og gikk på at sistnevnte selskap hadde fore-



BIOOLJE: Ansatte i arbeid med unge jatropha-planter på Biofuels første dyrkingsområdene på selskapets testfarm i Sugul

Mistenkt har ikke vært i Ghana for Perennial

Styremedlem Trygve Refvem har ikke vært i Ghana etter at Perennial ble opprettet. Han vurderer å ta anklagene til politiet.

FEIL: – Dette må være helt feil. Jeg ble styremedlem i Perennial da selskapet ble etablert i mai 2007 og har bare vært i Ghana to ganger. Det var i 2002 og 2003 – altså i en helt annen sammenheng, sier Perennial-styremed-

lem Trygve Refvem etter at hans navn er det eneste som er kommet fram i forbindelse med korrupsjonsopplysningene. Refvem sier at Perennial-styret har hatt en grundig intern gjennomgang av saken – og konkludert med at det ikke er noe grunnlag for utspillet.



IKKE I GHANA: Trygve Refvem.

POLITIET: – Dersom det ikke blir annullert på annen måte, kan det bli aktuelt å be politiet klare opp i saken. Det er tross alt alvorlige antydninger som ingen vil ha sittende på seg, sier Refvem. – Hva synes du om StatoilHydros framgangsmåte i saken? – Det vil jeg ikke uttale meg om.

– Føler du at StatoilHydro har satt spørsmålsteget ved din integritet?

– Nei, de gikk jo aldri ut med navn. Det var det vi som fant ut.

IKKE ANKLAGE: – StatoilHydro har ikke rettet anklage eller korrupsjonsmistanke mot styret i Perennial, men kun brakt videre et muntlig sitat som har kommet fram under selskapsgjennomgangen. Jeg oppfatter ikke at StatoilHydro på noe tidspunkt har mistenkt oss for korrupsjon, sier John Peter Hernes, styreleder i Perennial. Han mener opplysningene fra et britisk korrupsjons-jegerfirma, viderebrakt av StatoilHydro, er usanne.

– Da vi ble konfrontert med si-

tatet, var styremedlemmet ikke navngitt og det var ikke angitt verken tid eller sted, sier Hernes.

Siden engasjerte Perennial et advokatfirma for å få ut detaljer. – Refvem har ikke vært i Ghana siden 2003, lenge før Biofuel hadde aktivitet i landet, sier han.

Aftenbladet ringte i går også til de andre styremedlemmene i Perennials. De som svarte, henviste alle til styreleder Hernes for uttalelser. Det gjorde også Thorhild Widvey, som legger til at hun aldri har vært i Ghana.

Nytt Barnehus åpner i dag

VOLD OG OVERGREP: I dag åpner justisministeren landets fjerde Barnehus i Trondheim. Her kan barn som er utsatt for eller har vært vitne til vold og overgrep både avhøres og få hjelp i ett hus. Lokale politikere jobber for å få et hus til Stavanger i løpet av neste år. De har fått støtte av stortingspolitiker Inga Marte Thorkildsen (SV), som vil høre på erfaringene fra allerede etablerte hus før hun tidfester noe.

Biofuel



sa. (Foto: Biofuel)

tatt tvilsomme utbetalinger i forbindelse med overtakelsen av Sagas oljevirksomhet i Libya. Dette førte til at konserndirektørene Tore Torvund og Morten Ruud, som begge kom fra Hydro, trakk seg fra sine stillinger i Statoil-Hydro.

Da StatoilHydros anti-korrupsjonsteam fikk opplysningene fra Ghana, konfronterte det Perennial med beskyldningene. Og avsluttet at det ikke skal gå inn i det Stavanger-baserte bioselskapet.

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amt.even.boe@aftenbladet.no

Droppet Biofuel

DIALOG: – Vi har vurdert å investere i Biofuel AS i Ghana og har hatt en dialog med selskapet. Ut fra en helhetlig forretningsmessig vurdering har vi kommet fram til at vi ikke vil gå videre med selskapet, sier informasjonssjef Øistein Johannessen i StatoilHydro.

– Gjennomgangen vi har hatt av Biofuel AS, såkalt Due diligence, gjør vi med alle selskap vi vurderer å gjøre forretninger med, sier Johannessen. Han vil ikke kommentere om mistanken er anmeldt til politiet. – Vi ser alvorlig på enhver opplysning om mistanke om korrupsjon relatert til vår egen virksomhet. Vi vil i slike tilfeller gjøre nærmere undersøkelser for å klarlegge fakta og fortløpende vurdere å kontakte relevante myndigheter, som Økokrim, om nødvendig.

BIOFUEL: Styret består av tidligere styreleder i Hydro, Jan Reinås, Biofuel-gründere Finn Byberg og Arne Helvig, daglig leder i Såkom Invest, Stian Vemmestad og daglig leder i Perennial, Odd-Even Bustnes. Aksjonærer er Biofuel (finansiert gjennom Såkom Invest II, Rogaland Vekst, Radiance og Hafslund Venture) med 36 prosent, gründere med 35 prosent og privatpersoner. Daglig leder: Johan Fr. Dahle.

KLIMATILTAK: Biooljen fra jatropha-planten skal raffineres til drivstoff og tilsettes vanlig diesel for å gjøre de europeiske bilene mer klimavennlige. EU's mål er å ha 10 prosent biofuelinnblanding innen 2020.



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Super-rigger trakk ned

OVERASKET: Det Røkke-kontrollerte industrikonsernet Aker Solutions leverte svake tall i fjerde kvartal i fjor, men overrasket likevel analytikerne positivt.

SVAKERE: Selskapet hadde i fjerde kvartal et resultat før skatt på minus 467 millioner kroner, 1,4 milliarder svakere enn i samme periode i 2007. Selskapets driftsresultat landet på minus 120 millioner, over 1 milliard svakere enn i fjerde kvartal 2007.

Analysikerne hadde imidlertid spådd et driftsresultat på 358 millioner i minus og ble dermed positivt overrasket.

SKUFFET: -Kvartalsresultatet for forretningsområdet Energy Development & Services er skuffende, men dette negative resultatet i fjerde kvartal er isolert til Frigg- og H-6e-prosjektene. Ser man bort fra dette, er vi godt fornøyd med resultatet, det nest beste i selskapets historie, sier konsernsjef Simen Lieung i Aker Solutions.

Årsresultatet viser et resultat før skatt på 2,1 milliarder kroner (3,5 milliarder i 2007). Driftsresultatet var 2,7 milliarder, ned 700 millioner fra året før, mens driftsinntektene var 58,3 milliarder kroner, 300 millioner mer enn i 2007.

22 millioner i utbytte

LØNNSOM: Oljeserviceselskapet Bjørge ASA økte lønnsomheten i løpet av fjoråret og sender 22 millioner kroner til aksjonærene. Driftsinntektene for 2008 ble på 1720,4 millioner kroner mot 1167,5 millioner kroner i 2007, opp 47,4 prosent fra samme periode i fjor.

Driftsresultat før avskrivninger (EBITDA) endte på 130,5 millioner kroner og en driftsmargin på 7,6 prosent (6,7 prosent i 2007) for året under ett.

I siste kvartal økte Bjørge ordinært inntak med 21,6 prosent til 410,8 millioner kroner i forhold til 337,8 millioner kroner i fjerde kvartal 2007.

Total ordreserve ved utgangen av kvartalet er 942,6 millioner kroner, en økning på 21 prosent sammenlignet med 781,2 millioner kroner på samme tid i 2007.

Betydelige deler av gjelden er nedbetalt i fjerde kvartal, noe som har styrket soliditeten og likviditeten.

Styret foreslår at det betales et utbytte på kr. 0,50 per aksje, tilsvarende et totalt utbytte på 22 millioner kroner.

Biooljeselskapene på kanten av stupet

Korrupsjonsmistanken gjør at biooljeselskapene Perennial og Biofuel står på kanten av stupet. De trenger mer penger før innhøstingen i Ghana.

Camilla Bjørheim
Arnt Even Bøe
Pål Christensen foto

FORSØK: Etter det Aftenbladet erfarer forsøker de to biooljeselskapene Perennial og Biofuel nå på alle måter å få StatoilHydro til å legge korrupsjonsmistankene døde en gang for alle.

Begge selskapene har vært på utkikk etter investorer som kan gå inn med mer penger. Korrupsjonsmistankene fra Ghana setter en effektiv stopper for det så langt, både når det gjelder StatoilHydro og andre eventuelle investorer. Opplysninger Aftenbladet har fått går på at biooljeselskapene ennå ikke helt gitt opp håpet om å få StatoilHydro til å gå inn med noen titalls millioner kroner i jatrophaprojektet som de begge er involvert i.

FORTVILELSE: Biofuel, hvor Perennial er største eier med 36 prosent, har allerede plantet ut et større område med jatropa-busker i Ghana. Alt er dermed klart for den første innhøstingen av de oljerike fruktene tar til etter sommeren. Desto større er fortvilelsen i de to selskapene over den situasjonen StatoilHydro har brakt dem i. I verste fall kan biooljeventyret bli stanset før det har begynt, for de to norske pionerselskapene.

Styreleder i Perennial, John Peter Hernes, vil ikke gå i detaljer om hvilken kontakt han eller andre i Perennial-styret har hatt med StatoilHydro.

-Har dere tatt kontakt med Helge Lund?

KAPITAL: Biofuel, som holder til i disse lokalene i Verven 12 i Stavanger, trenger ny kapital før innhøstingen av biooljen som er plantet ut i Ghana.

Politiet stoler på StatoilHydros rutiner i saken

Stavanger-politiet stoler på at StatoilHydro tar kontakt om det er behov for det.

TAUSHETSPLIKT: Stavanger-politiet påberoper seg taushetsplikten og kan derfor ikke svare på om StatoilHydro har anmeldt sin korrupsjonsmistanke i Ghana.

-Det er heller ikke anmeldelsesplikt i slike saker, sier leder ved seksjon for økonomisk kriminalitet ved Rogaland politi-

SAKEN

StatoilHydro dropper planene om å gå inn på eiersiden i Biofuel i Ghana på grunn av korrupsjonsmistanker.

RINGER IKKE: -Det vil jeg ikke kommentere. Men vi har tatt kontakt med StatoilHydro for å få mer bakgrunn i saken. Men jeg er ikke i posisjon til å ringe Lund direkte, sier Hernes.

-Men det er det andre i Perennial-styret som er?

-Det vil jeg ikke kommentere, sier Hernes.

-Har dere hatt kostnader i forbindelse med saken?

SVERTET: -Ja, det er klart. Når dette nå er blitt en offentlig sak, må vi bruke ressurser på å komme til bunns i den. Dette kan jo ikke Trygve Refvem ha hengende

over seg. Han er blitt svært uten mulighet til å forsvare seg. Men jeg opplever at vi har et godt samarbeid med StatoilHydro nå, for å få oppklart situasjonen, sier Hernes.

I gårshagens avis avviste han at Perennial-styret føler seg mistenkt for korrupsjon. «StatoilHydro har ikke rettet anklage eller korrupsjonsmistanke mot styret i Perennial», sa han da.

KRASSERE: Trygve Refvem, som skal være den i Perennial-styret mistanken retter seg mot, var i samme avis langt krassere i sine kommentarer.

«Det er tross alt alvorlige antydninger som ingen vil ha sittende på seg», sa han til Aftenbladet, og la til at det kan bli aktuelt å «be politiet klare opp i saken», dersom den ikke blir annullert på annen måte.



POLITET: John Arild Jåsund.

denne saken. Men det har som alle andre full anledning til å gi politiet tips og innspill om de har mistanke om ulovligheter.

-Hva gjør Stavanger-politiet nå med denne saken?

-Foreløpig kjenner vi den bare fra Aftenbladet. Det er ikke tilstrekkelig til å iverksette etterforskning. StatoilHydro er et oppegående selskap med gode rutiner i slike saker. Det samarbeider normalt godt med politiet og vi stoler på at selskapet vi-

derebefordre opplysninger som kan være av interesse for oss, sier Jåsund.

Gro Skaaren-Pystro i Transparency Norge sier på generelt grunnlag at man bør anmelde mistanker om korrupsjon til politiet eller Økokrim.

-Slike mistanker skal tas på alvor, sier Skaaren-Pystro.

I den aktuelle saken er faktum at StatoilHydro har leid et britisk korrupsjonsjegerfirma for å lete fram eventuelle skjetter i ska-

NED FOR DAGENS NÆRINGS LIV: Finanskrise og svikt i annonse salg førte til at Dagens Næringsliv hadde en omsetningsnedgang på 9 prosent i fjerde kvartal i fjor. Avisen fikk et samlet resultat før skatt på 53,9 millioner kroner i 2008 mot 88,6 millioner kroner året før. Dette til tross for at Dagens Næringsliv opplevde den største opplagsøkningen blant Norges største aviser, og hadde sitt høyeste opplag noensinne. (NTB)

Stort rom for forbedring

GODKJENT: Norges Bank burde kuttet renta tidligere, hatt tydeligere budskap utad og vært tidligere ute med informasjon til markedet. Likevel er karakteren godkjent fra Norges Bank Watch 2008, som ble gitt ut av Bis senter for pengepolitikk i går. (NTB)

TINE-STYRET: Tines sentrale valgkomite har enstemmig innstilt styreleder Fredmund Sandvik, Region Midt-Norge, for gjenvalg i konsernstyret. Fra Rogaland har konsernstyrets nestleder, Tor Inge Eldesen fra Haugesund, frasagt seg gjenvalg. Styremedlem Ola Magnar Undheim fra Hå foreslås gjenvalgt som styremedlem.

Anten av stupet



Forbrukernes tillit fortsetter å synke i USA

Washington (NTB-DPA): Amerikanske forbrukeres tillit til landets økonomi er den laveste som noen gang er registrert, ifølge en måling fra en privat forskningsgruppe som ble kjent tirsdag. Indeksen over forbrukernes tillit falt fra 37,4 poeng i januar til 25,0 poeng i februar, opplyste den New York-baserte forskningsgruppen Conference Board. Tallet er det laveste siden gruppen begynte å kartlegge forbrukernes oppfatning av landets økonomi i 1967. (©NTB)

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– Forstår ikke hva vi har gjort galt

pet til Biofuel. Det britiske firmaet leverte et sitat til StatoilHydro. Dette sitatet beskriver en korrupt handling. Et styremedlem i Perennial skal ha betalt et beløp til en mellommann i Ghana.

– Det virker som om StatoilHydro tar dette på alvor. Det er bra at selskaper som får korruptjonsmistanke undersøker forholdene nøye, for å finne ut om det er substans i eventuelle mistanker og dermed grunnlag for anmeldelse, sier hun.

IHERDIG: – Vi har jobbet iherdig for å forstå hva som skjer i denne saken, men har ikke klart å finne ut at vi har gjort noe galt, sier administrerende direktør i Biofuel As, Johan Fredrik Dahle, til Aftenbladet. – Vi får ingenting av det som er kommet fram til å stemme med oss, verken tid,

sted eller formål.

– Hva synes du om at StatoilHydro dropper en mulig satsing i Biofuel etter mistanke om korruptjon mot et styremedlem i Perennial?

– Det har jeg ingen kommentar til, sier Dahle, som heller ikke vil kommentere andre sider ved saken nå.

Direktefly fra Sola til Solgården i Spania!

31. mars går første direktefly i 2009 fra Stavanger. Meld deg på og nyt godt av vår koffertservice, og møt vårt fantastiske helsesteam som også er reiseledere.

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Wenche Maartmann-Moe

From: Ann-Elisabeth Serck-Hanssen
 Sent: 24. februar 2009 15:36
 To: Ann-Elisabeth Serck-Hanssen; Reidar Gjærum; Siv Helen Rygh Torstensen
 Cc: Tom Melbye Eide
 Subject: SV: RE: Et spørsmål til - ny status

Follow Up Flag: Follow up
 Flag Status: Flagged

Hei,
 Ble oppringt av ceo i dag JF Dale. Jeg har understreket at vi foretningsmessig ikke vil forfølge dette prosjektet videre basert på foretningsmessig helhetlig vurdering. Dette gjelder også eventuell nedskalert aktivitetsnivå selv om info sjekkes ut. De handlinger vi har sett de siste to uker gir meg en bekreftelse på at dette ikke er selskap vi vil alliere oss med i denne type prosjekt. Jeg kommenterte selvsagt ikke dette.

Hans hovedpoeng var å bringe frem et trusselbilde dersom vi ikke tok et ansvar for videre avklaring. Følgende ord ble brukt: skummel situasjon som kan rulle videre i presse, eiere og styrerepresentanter gir seg ikke, og at de vil renvaske seg og rydde opp. selskape

Sendt fra en Windows Mobile®-telefon.

Wenche Maartmann-Moe

From: Ann-Elisabeth Serck-Hanssen
 Sent: 24. februar 2009 15:49
 To: Ann-Elisabeth Serck-Hanssen; Reidar Gjærum; Siv Helen Rygh Torstensen; Øistein Johannessen
 Cc: Tom Melbye Eide
 Subject: SV: RE: Et spørsmål til - ny status

Follow Up Flag: Follow up
 Flag Status: Flagged

Beklager, skriver fra tlf.
 fortsettelse

Selskapets svake situasjon gir stor desperasjon blant ledelse og eiere, snart insolvent.

Dale utfordrer på nytt vår vurderingsprosess hvor han mener vi burde informert om at det var en reell mulighet for at prosjektet ikke ble besluttet. Sistnevnte mener vi ha gjort klart, men det har nok blitt oppfattet som om dette var i boks ettersom fremforhandlet termsheet var del av beslutningsgrunnlaget samt at det ikke var enkeltfunn som isolert sett stoppet prosjektet i due dil. Dale mener at uten oss med får de ingen nye investorer med.

Jeg understreket på nytt at vår ledelsesbehandling er reell og at dette har blitt kommunisert, at vi har vært konstruktive mht informasjonspunktet, og at de bør søke nye investorer ettersom de selv mener informasjonen er en misforståelse. Utvilsomt vil de helst ha oss med, men det har jeg nå lukket 100 prosent, og jeg tror vi kan vente ny mediarunde om at vi ikke har vært tilstrekkelig etterrettelige i vår dialog mht prosjektet. Realiteten er jo at det pt ikke finnes noen relevant industrielle langsiktige interessenter, og jeg vurderer derfor deres hensikt som å ønske å presse oss videre. Vi vil basert på siste to ukers utvikling stanse videre sonderinger i Ghana, ettersom dette synes ha mer ned enn oppside. Ring dersom avklaringsbehov.
 Nb Jan Reinås har også kontaktet Alexandra.
 Ann E

Ann E

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Økonomi

Se også: aftenbladet.no/energi

Leder: Kolbjørn Andreassen. Tlf. 952 82 808. Epost: naering@aftenbladet.no

20.000 jobber forsvinner

GÅR NED: Vel 20.000 arbeidsplasser vil forsvinne fra byggenæringen i Sverige i løpet av 2009, ifølge nye prognoser. Samtidig vil investeringer i byggebransjen gå ned med 5 prosent, tror den svenske arbeidsgiverorganisasjonen Sveriges Byggindustriet (NTB).



Tysk gulost overtar

HANDEL: Tysk gulost er i ferd med å utkonkurrere produktene fra Synnøve Finden og Tine. Selv med full toll er den snart billigere enn den norskproduserte, ifølge Nationen. Siden nyttår har den norske melkeprisen steget mens den internasjonale melkeprisen gått ned, samtidig har kronen styrket seg.

– Mistanken stanset tosifret

Biofuel godtar ikke StatoilHydros begrunnelse for å droppe investeringer på 30-50 millioner kroner i biooljeprosjektet i Ghana. – Korrupsjonsmistanken ligger bak, hevder Biofuel.

Arnt Even Bøe tekst

SAKEN

StatoilHydro dropper planene om å gå inn på eiersiden i Biofuel AS i Ghana på grunn av korrupsjonsmistanker.

KORRUPSJON: StatoilHydro hevder offisielt at «en samlet vurdering» ligger bak når selskapet velger å ikke investere i Biofuels jatropa-plantasjer i Ghana. Det godtar ikke Biofuel, som er helt klare på at den egentlige grunnen til tilbaketog er korrupsjonsmistankene StatoilHydro har framsatt.

Dette skal være konklusjonen på et møte i Stavanger mandag denne uka, der Biofuel informerte sine eiere om den vanskelige situasjonen selskapet har kommet i. Etter at Biofuel-ledelsen valgte å gå ut med disse opplysningene, begynner frontene å avtegne seg i en sak hvor de involverte så langt har nøydt seg med generelle fraser. Biofuel er svært frustrert over situasjonen som er skapt av StatoilHydro.

HEMMELIG: Utgangspunktet er at Biofuel må ha mer penger for å fullføre det store biooljeprosjektet som er godt i gang i Ghana. StatoilHydro forretningsområde for Ny energi fattet interesse for biooljeprosjektet i fjor sommer. I august ble en såkalt Non-Disclosure Agreement signert med Biofuel.

Det betyr kort sagt at sanderne som pågår foreløpig skal



HØSTING: Biofuel har testet ut innhastingsmaskiner fra bær på jatropa-plantasjer i Ghana. Resultat skal ifølge selskapet være svært gode. (Foto: Biofuel)

■ Mener «samlet vurdering» er feil begrunnelse fra St

være hemmelige. En del av opplegget var at StatoilHydro skulle få gjennomført en Due diligence – en selskapsgjennomgang.

ANSTRENGT: Mens dette pågikk var Biofuel i en ganske anstrengt økonomisk situasjon, slik at gründerne og deleierselskapet Perennial måtte bidra med kort-siktige lån for at sonderingene med StatoilHydro kunne sluttføres. Etter det Aftenbladet forstår var det meningen at StatoilHydro skulle inn i Biofuel med 30-50 millioner kroner.

Ifølge opplysningene som ble lagt fram på eiermøtet mandag,

var StatoilHydro godt fornøyd etter et besøk i Ghana i januar i år. Derfor kom det som et sjokk da selskapet i et møte 30. januar la fram opplysninger fra innleide britiske korrupsjonsjegere. Der het det at et ikke navngitt styre-medlem i Perennial, som eier 36 prosent i Biofuel, skal ha medvirket til bestikkelser i tilknytning til prosjektet i Ghana. Påstandene går på at et større pengebeløp skal ha blitt betalt som bestikkelse til en sentral person i Ghana for at Biofuel skulle oppnå fordeler i sitt arbeid i landet. Ifølge opplysningene på eiermøtet inneholdt mistankene

fra StatoilHydros korrupsjonsjegere verken tid, sted, formål, personer eller beløp.

Alle sju styremedlemmer i Perennial benekter ethvert kjennskap til saken.

Perennial-styret iverksatte en større granskning. Resultatet er at det ikke skal finnes verken navn, spor eller begivenheter som kan knytte noen i Perennial eller Biofuel til de framsatte korrupsjonsmistankene.

Etter dette fattet Biofuel nytt håp og gjorde seg klar til å gå gjennom saken på nytt med StatoilHydro. Da kom sjokket: StatoilHydro trakk seg plutselig med

begrunnelsen: «En samlet vurdering».

EIERMØTET: Ingen i Biofuel ville i går kommentere opplysningene fra eiermøtet overfor Aftenbladet, men etter det vi forstår, er frustrasjonen stor. Selv om begge biooljeselskapene gjør alt de kan for å legge mistanken død, når de ikke fram hos StatoilHydro. Med uavklarte korrupsjonsmistanker hengende over seg, blir det nesten umulig å få inn ny kapital og nye eiere for å fullføre prosjektet hvor det så langt kan være lagt ned 150-200 millioner kroner.

200 millioner i bonus til sokkelansatte

Kolbjørn Andreassen tekst

ROTASJON: 3300 sokkelansatte i StatoilHydro ønsker å jobbe på en annen installasjon enn de gjør i dag. Det utløser en bonus på totalt 200 millioner kroner.

Etter at Statoil og Hydros olje- og gassdivisjon fusjonerte, har selskapet jobbet for å etablere en ny og felles organisering offshore.

Det er et mål for ledelsen å lage en felles selskapskultur der folk skifter mellom plattforme

ne og tar med seg erfaringene fra plattform til plattform.

FÅR 60.000: Før jul meldte rundt 900 ledere i StatoilHydro sin interesse for å skifte installasjon. I denne runden har selskapet bedt resten av de offshoreansatte om å melde sin interesse for å rotere mellom installasjonene.

– Det var om lag 4500 som hadde mulighet for å melde sin interesse. Av disse var det 3300 som sa at de var villige til å jobbe

på en annen installasjon enn de gjør i dag, og dermed kommer i posisjon for å få kompensasjon, sier pressetalsmann Gisle Johansen.

Hver ansatt som er villig til å rotere mellom plattformene, får en bonus på 60.000 kroner.

son i StatoilHydro til Aftenbladet.

Hver ansatt, som er villig til å

rotere, får en bonus på 60.000 kroner.

GULLPÅKKE: I underkant av 60 prosent av de ansatte over 58 år har tatt imot tilbudet om gullpakke. Det betyr at om lag 190 personer over 58 år fortsatt ønsker å jobbe offshore.

– Både den store deltakelsen, den høye mobiliteten, og balansen mellom de som tar tidligpensjon og de som ønsker å gå videre, er veldig positiv, sier Johansen til Aftenbladet.



FLEKSIBLE: 3300 sokkelansatte i StatoilHydro ønsker å jobbe på en annen installasjon enn de gjør i dag. (Foto: Jarle Aasland)

I løpet av april skal alle ha fått beskjed om hvilken stilling de får.

Trenger lokomotiv

PLAN B: StatoilHydro bør bli lokomotivet i en radikal og krevende omstilling norsk næringsliv må gjennom før 2020, ifølge Teknologirådet. Prioriteringene selskapet gjør vil ha store konsekvenser for norske utslipp og utvikling av ny kompetanse.

Flere har varmepumpe

ENØK: Det internasjonale energibyrået sier energieffektivisering i hus og industri er det mest effektive klimatil-taket. Norske tall viser at salg av varmepumper som utnytter varme fra fjell og vann er firedoblet på tre år.



millioninvestering



Medaljens bakside

LEI SEG: – Vi er veldig lei oss for den situasjonen anklagene har bragt oss i, sier styreleder Jan Reinås i Biofuel til Aften-bladet.

Han har full forståelse for StatoilHydros framgangsmåte i saken og er glad for at det finns slike prosesser, men legger til at Biofuel nå får er-fare baksiden av dem.

INGEN SPOR: – Vi forsøker nå å rydde opp i saken så godt vi kan. Til tross for en omfattende gjennomgang av hele komplekset, finner vi ingen spor som kan knytte korrupsjons-mistankene til vårt selskap.

– Synes du StatoilHydro bi-drar nok til å oppklare saken?

– Det må selskapet svare på selv. Så vidt jeg forstår har de fått servert korrupsjonsmis-tanken av andre. Dermed er det kanskje ikke åpenbart at det er StatoilHydro alene som skal klarere den ut.

SANNHETEN: – Hva er ditt vik-tigste mål nå?

– At sannheten kommer fram slik at saken kan legges død.

– Tror du dere får de in-vestorene som trengs for å fullføre det som er påbegynt i Ghana?

– Vi mener Biofuel er god butikk med et stort samtid-s-potensial, sier Jan Reinås.

ilHydro

Bioolje for 8 mill. årlig

30 GÅRDSBRUK: Ifølge opplysninger lagt fram på eiermøtet i Biofuel mandag, skal selskapet nå ha satt ut jatrophaplanter på i alt 6500 mål i Ghana; et areal som tilsvarer rundt 30 gjen-nomsnitts gårdsbruk på Jæren. Anslagene går ut på at dette kan gi en årlig biooljeproduks-jon på 1300 millioner tonn olje til en samlet bruttoverdien på 5-8 millioner kroner årlig. I alt har Biofuel så langt fått god-kjent 230.000 mål for jatrophadyrking i Nord-Ghana. Selska-

pets mål er å produsere 34.600 tonn bioolje i året, innen 2014. Satsingen skal være en av verdens største på jatrophaplanter. Prosjektene skal i perioder ha gitt kjærkommen sysselsetting til inntil 400 ghanesere.

KLIMA: Den klimavennlige biooljen fra jatrophabusken skal selges til innblanding i vanlig diesel slik at EU og andre land kan nå sine strenge målsettinger om reduserte utslipp fra vei-trafikken.

Beskytt ditt varemerke!

ghamsø

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Ost og melk tilbake

DAGLIGVARE: Tine og NorgesGruppen er blitt enige om en ny avtale som gjør at Tines melk og ost kommer på plass igjen hos Kiwi, Ultra, Spar og Joker-butikkene. Begge parter har strukket seg langt for å finne en løsning, og er lettet over at konflikten er løst, ifølge en pressemelding.

KJØPER KVOTER: Finansdepartementet har undertegnet to nye kontrakter om kvotekjøp. Kontraktene gjelder kjøp av klimakvoter fra Indocement i Indonesia og fra Nordisk miljøfinansieringsselskap (Nefco). Kontrakten gjelder levering av 250.000 klimakvoter, med andre ord en reduksjon av CO₂-utslipp på 250.000 tonn.

Korrupsjonsmistanken mot Perennial:

Styret går til politiet



KONKURS: Flere av dem som har satset hus og hjem på Biofuels Ghana-prosjekt, risikerer nå å miste pengene i en konkurs, sier styreleder John Peter Hernes i Perennial. (Foto: Biofuel)

Korrupsjonsmistankene i bioolje-saken havner nå hos politiet. – Vi kan ikke leve videre med dette hengende over oss, sier John Peter Hernes.

Arnt Even Bæe

KONKURS: I går leverte Perennial alt selskapet har samlet om den mulige korrupsjonssaken til politiet i Stavanger. Biooljeselskapet mener det hele skyldes en forveksling og frykter konkurs om ikke mistankene StatoilHydro la fram, legges døde.

– Dette er en viktig sak både for Perennial og for oss syv i styret. Selskapet er i en avgjørende fase og kommer ikke videre med uavklarte korrupsjonsmistanker hengende over seg. For oss i styret, og ikke minst for styremedlem Trygve Refvem som fikk sitt

POLITIET: – Vi kommenterer aldri hva vi får og ikke får av anmeldelser, tips og innspill, sier leder ved seksjonen for økonomisk kriminalitet ved Rogaland politidistrikt, John Arild Jåsund, til Aftenbladet. På generell basis kan han si at det ikke er uvanlig at politiet får materiale fra saker overlevert. – Hvis det er mistanke om noe kriminelt, går vi videre. Hvis ikke kan vi legge sakene til side i påvente av nye opplysninger som svekker eller styrker eventuelle mistanker. Eller vi kan legge sakene bort, sier Jåsund.

PERENNIAL

KORRUPSIJON: StatoilHydro har viderebragt korrupsjonsmistanker mot ett av Perennials styremedlemmer.

EIER: Perennial eier 36 prosent i Biofuel som satser på bioolje i Ghana.

navn involvert, er det også viktig å komme til bunns i saken. Vi er alle aktive og engasjerte mennesker som ikke kan ha slike mistanker hengende over oss, sier styreleder John Peter Hernes i Perennial til Aftenbladet.

– Hvem anmelder dere?

NAVN OG LINKER: – Det er ikke en anmeldelse. Perennial har gjort alt hva vi har kunnet for å finne ut hva som ligger bak beskyldningene. Vi har ikke funnet noen koblinger mellom Perennial og den beskrevne korrupte hand-

SAKEN

StatoilHydro dropper planene om å gå inn på eiersiden i Biofuel AS i Ghana på grunn av korrupsjonsmistanker.

linger verken i tid eller sted. Men mener vi at det videre arbeid hører hjemme hos politiet. Derfor overleverer vi alt vi har, inkludert navn og linker, til politiet som har myndighet og kompetanse i slike saker.

– Har StatoilHydro, som kom med mistankene, vært samarbeidsvillige?

– Før saken kom opp i media hjalp de oss et stykke på vei, men nå sier de stopp. Når vi ber politiet ta over, er det blant annet fordi vi ikke har fått ut all relevant informasjon. Vi har jo ikke noe pressmiddel for å få utført kryssjekking av telefonlogger og liknende.

– Hva er problemet?

TABBE: – StatoilHydro har jo outsourcet den delen av jobben vi er interessert i til et selskap i England. Dersom dette selskapet har

Når vi ber politiet ta over, er det blant annet fordi vi ikke har fått ut all relevant informasjon.

John Peter Hernes, styreleder i Perennial

gjort en tabbe, kan jo problemet være at StatoilHydro ikke får sjekket saken fordi det engelske selskapet beskytter kildene sine. Jeg har dessuten vanskelig for å tro at et slikt etterforskningsbyrå vil innrømme at de har begått en tabbe, som vi er overbevist om at de har.

– Hvor ligger forklaringen?

– Det må ha skjedd en forveksling av navn og selskaper. Vi har også en formening om hvem vi kan ha blitt forvekslet med,

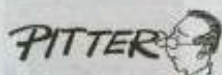
men vil ikke si noe mer om det nå, sier Hernes som ikke legger skjul på at saken har skapt alvorlige økonomiske problemer for både Perennial og Biofuel.

KONKURS: – Uten nye investorer kan Biofuel gå konkurs mens løsningen for Perennial kan bli en styrt avvikling.

– Ser du for deg et framtidig erstatnings søksmål?

– Det vil jeg ikke ta stilling til nå. Men om det ender med konkurs for Biofuel, er det vel ikke så usannsynlig om andre vurderer det. Flere har satset både hus og hjem i troen på Ghana-prosjektet. Hvis de nå taper alt på grunn av dårlig arbeid fra StatoilHydros leverandør, vil det være naturlig å prøve saken for retten via et erstatnings søksmål, sier John Peter Hernes.

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En mann i USA stappet katten i haspipa for å roe den.
At ingen tenkte på den muligheten mens George
W. Bush var på sitt mest aktive!

Klart for Statpower
DEBATT 2. DEL side 25

Åpent brev fra lederen av Biofuels testfarm i Ghana:

Utviklingsprosjektet som trolig må gi tapt



Ove Martin Kolnes
leder for Biofuel
i Sugakope, Ghana

ÅPENT BREV

ACCRA, GHANA: Som contracted i to år for Biofuel AS har jeg hatt mitt faste tilholdssted i Sugakope, nedre Volta-regionen som ansvarlig for Biofuels testfarm i Ghana. Vi har hatt opptil 120 ansatte, herav 30-40 prosent kvinner. I løpet av disse to årene har jeg lært mye, mange av mine ferdigheter har blitt utfordret og (heldigvis) endret.

Å arbeide, skape noe, i Afrika er ofte som å kjempe mot vindmøller. Vi har måttet tåle uberettiget mye kritikk fra vestlige medier uten at vi kan ta til motmæle. Forståelsepåret har vært ute som linselus, fra akademiske miljøer på Blindern til hjelpeorganisasjoner med tvilsomme agendaer.

VI HAR SAMMEN med landsbybefolkningen vært tause i kamp mot malaria, infeksjoner og annet i lojalitet og håp om at alt ordner seg til slutt. Vi klarte det, men dessverre ble vi for små og StatoilHydro så altfor mektige.

Vi nordmenn som arbeider her nede har måttet ta en del valg før man sier ja takk til et slikt oppdrag. Utfordringene har gått på blant annet korrupsjon, lederstil og ghaneseres innstilling til oss vestlige. Hvite. Vi måtte kjempe med nebb og klør før ghaneserne aksepterte at vi kunne bære vår egen veske og at vi fikk lov til å ta i et tak.

VI TOK SELV de mest risikofylte arbeidsoppgavene i forhold til tungt maskineri før vi hadde lært opp landsbyfolkene til selv å håndtere dem. Nå har vi egen sertifisert kjøreskole og forsøker på beste vis å holde norske standarder.

Våre arbeidsgivere har alltid hatt en nulltoleranse i forhold til korrupsjon, noe vi har satt stor pris på. Det har gjort arbeidsdagene våre litt mer utfordrende, men desto mer spennende. Vår holdning har vært at det er bedre å betale 100 dollar til den Ghanesiske stat enn 5 dollar til en korrupt politimann.

SIDEN DET IKKE finnes forenklede forelegg her nede, har det blitt et par runder i retten for manglende sikkerhetsbelte og varselrekant. Men trosten er at man får en kvittering og søv så mye bedre om natten.

StatoilHydros belærende, arrogante



SYKESTUA: Her er sykestua ved Biofuels testfarm i Sugakope i Ghana. (Foto: Ove Martin Kolnes)

Jeg har ett hjerte for Biofuel, men to større for Ghana.

holdning er derfor en kraftig provokasjon for oss på gulvet her i Ghana. Det skader vår integritet og vårt omdømme. StatoilHydro er slik vi forstår tungt involvert i oljevirksomheten utenfor Ghanas kyst.

JEG HÅPER for deres skyld de ikke har altfor mange skjeletter i skapet sitt siden de har nok av dem fra før å begrave. Siden de sannsynligvis kun ser Afrika fra en SUV med AC og menger seg med et innflytelsesrikt nettverk her nede klarer de seg nok meget godt.

Ghana er et tydelig klasseinndelt samfunn. De som er i posisjon til å tillegge seg penger på lovlig eller ulovlig vis, og de som ikke er i posisjon. Biofuel henvender seg ved sin aktivitet til dem som ikke er i «posisjon» og dette kan ofte skape fiender blant dem som er i «posisjon». Et godt eksempel er følgende:

VI INVITERTE 26 landløse bønder til å dyrke mais innimellom vår Jatropa. Vi pløyde og tilberedte jorden for dem mot at dem måtte holde «plottene» de res fri for ugress, noe som var til god hjelp siden Jatropaen ikke liker tett ugress de første levernåder. 300 Ha ble plantet, men bare 100 Ha var godt nok for mais.

Landeier henvendte seg til oss og sa at ifølge tradisjonen skulle landeier ha

40 prosent, den som tilbereder jorden, 30 prosent og bonden selv 30 prosent. Vi aksepterte at landeier fikk sine 40 prosent, men at vi ønsket å gi vår share til bondene. Dette skapte sinne hos landeierne siden vi brøt tradisjonen, vi skapte bortskjemte bønder. Altså skulle bonden bare få 30 prosent, sitte med risiko, arbeid og stå for fra.

ENHVER NORSK BONDE vet at land i seg selv er tilnærmet verdiløst, det er arbeidet som blir lagt ned, ofte gjennom generasjoner, på jorden, som gir jorda verdi.

Videre har vi iverdige forsøkt å få til samarbeid med ulike hjelpeorganisasjoner, men dette har vist seg vanskelig. De lokale representantene er for redde for sin posisjon og har istedenfor motarbeidet oss.

STATOILHYDROS virksomhet skaper imidlertid ikke arbeidsplasser i distriktene for de fattigste, men fyller lommene til dem som allerede har nok fra før her i Ghana, de som allerede er i «posisjon». Vi har et sterkt inntrykk av at våre kritikere og StatoilHydro går overklassens ærend og ikke de fattigste.

Vi sitter med mange inntrykk fra vårt toårige opphold i Ghana. Vi har mange ganger måttet stenge av vårt «følelsesapparat» når tøffe beslutninger måtte tas, sikkert ikke

helt ulikt det Helge Lund også må gjøre. Forskjellen er at vi alltid har spilt et fair game, ikke dolket noen i ryggen.

IMIDLERTID har den siste tåken vært for tøff for oss, vi klarer ikke lenger å stenge alt borte. Vi har gått ned til tre arbeidsdager i uken, nå sist en dag. Arbeiderne klagde siden de ikke lenger hadde råd til å kjøpe proteiner til maten, de hadde ikke energi nok til å arbeide. Vi så ikke annen utvei enn å stenge portene etter sist morgenmøte.

Vi har muslimer, pinsevenner, frie venner, katolikker og lokale religioner, men som de sa: Vi har jo samme Gud, vi ber til ham for oss, Biofuel og dere i Norge. Det er det som er så fint med vestafrikanere, de har en langt mer praktisk tilknytning til sin religion. Før jeg dro tilbake til sivilisasjonen (Accra) og forlot dem i det uvisse lovt jeg dem å kjempe med nebb og klør.

DETTE BREVET er resultatet av min lovnad. Jeg vet at jeg som contracted med dette handler illojalt og ber om tilgivelse til styret i Biofuel Africa og alle andre involverte for min manglende profesjonelle innstilling, men som jeg pleier å si: Jeg har ett hjerte for Biofuel, men to større for Ghana. Da vet dere hvor min lojalitet i realiteten ligger...

Økonomi

Se også: aftenbladet.no/energi

Leder: Kolbjørn Andreassen. Tlf. 952 82 808. Epost: naering@aftenbladet.no

BIOFUEL

Biofuel vakler, vurderer erst

■ Gründere skylder på StatoilHydros anklager

Flertallet i Biofuel-styret har kastet kortene. Gründerne vil fortsette og vurderer erstatnings-søksmål mot StatoilHydro.

Arnt Even Bøe tekst

ANMELDELSE: – Vi utreder nå mulighetene for å gå til erstatnings-sak mot StatoilHydro. Samtidig vurderer vi å politianmelde selskapet, sier Biofuel-gründer Steinar Kolnes til Aftenbladet.

Korrupsjonssaken er også overlevert til antikorrupsjonsmyndighetene (Serious Fraud Office) i Ghana og Kolnes regner med norsk politi vil bistå ghaneserne i etterforskningen.

GRÜNDERNE: Mens et flertall på fire i Biofuel-styret mandag gikk inn for å avvikle selskapet (se plugg), håper de to gründerne i styret, Arne Helvig og Finn Byberg, pluss medgründer Steinar Kolnes, å gå videre via en ekstraordinær generalforsamling.

Biofuel-selskapet har så langt investert nærmere 60 millioner kroner i Ghana. Om selskapet melder oppbud, frykter gründerne at maskinene, bilene og andre eiendeler blir stjålet i løpet av kort tid. Da blir det heller ikke mulig å høste inn de utplantede jatropha-fruktene etter sommeren.

Ifølge Biofuel dreier virksomheten seg om ni norske arbeidsplasser og 400 ghanesiske.

GJELD: De tre gründerne har gått inn i Biofuel med til sammen 3,5 millioner kroner det siste halvåret. Mens selskapet skal ha en ekstern gjeld på rundt halvannen million, hovedsakelig i form av utestående lønninger, betaling til advokater og First Securities.

Gründerne er svært skuffet over at StatoilHydro ikke har villet bidra til renvasking av korrupsjonsbeskyldningene som StatoilHydro kom med. Deretter har StatoilHydro ifølge gründerne sluttet å svare på henvendelser fra Biofuel, mens andre investorer bakker unna.

SPEKULASJONER: – Når vi ikke får kontakt med StatoilHydro, begynner vi å spekulere i hvorfor de ikke vil hjelpe oss å oppklare saken. Vi undrer oss også over at de ikke brakte alvorligheten av disse beskyldningene, som de fikk vite om i desember, videre til oss før 30. januar, sier Arne Helvig.

De tre henvender seg nå i sin fortvivelse til Rogalands stortingsrepresentanter i håp om at de skal legge press på StatoilHydro for å få dem til å legge alle fakta på bordet.

Når vi ikke får kontakt med StatoilHydro, begynner vi å spekulere i hvorfor de ikke vil hjelpe oss å oppklare saken

Arne Helvig, Biofuel-gründer

– Siden opplysningene ikke kommer fra en etterforskning, ligger veien åpen for hvem som helst å komme opp med fullstendig grunnløse påstander, skriver de tre i brevet.

FIRST UT: I brevet viser de tre også til at First Securities, som skulle tilrettelegge for emisjonen med StatoilHydro, forlangte at korrupsjonsmistanken måtte erklæres ubegrunnet før det ville gå videre med prosjektet. Siden det ikke har skjedd, er First nå ute av bildet.

Ifølge Biofuel dreier virksomheten seg om ni norske arbeidsplasser og 400 ghanesiske. Selskapet opplyser at det er den største bidragsyter til sysselsettingen i den nordre regionen i Ghana, og beklager sterkt de ulempene et oppbud vil føre til for alle de involverte og deres familier.

Se også LEDER side 3

OPPBUDET: Biofuels styre er delt. Flertallet, bestående av styreleder Jan Reinås, daglig leder Johan Fredrik Dahle, Stian Vemmedstad fra Säkoms Invest og daglig leder Odd Even Bustnes i Perennial, vil begjære oppbud og har avsluttet sitt virke i styret. Selskapets gründerne satser på støtte hos kreditorene til å velge et nytt styre på en ekstraordinær generalforsamling i neste uke.

Harryhandel for 9 milliarder i fjor

OSLO: I fjor reiste nordmenn på færre dagsturer til utlandet, men handlet for mer penger enn tidligere. Vi handlet for 8,9 milliarder kroner i forbindelse med dagsturer til utlandet i 2008, viser ferske tall fra Statistisk sentralbyrå. Det er 3 prosent mindre enn året før, men ligger på samme grensehandelsnivå som i årene 2004 til 2006. Det ble tatt 5,8 millioner dagsturer til utlandet i fjor, en nedgang på 7 prosent fra året før, slik at det kan se ut som om nordmenn handlet for mer penger per tur enn i tidligere år. (NTB)



KJEMPER: Biofuel-gründerne Finn Byberg, til venstre og Steinar Kolnes står sammen med medarbeidere på jatropha-plantasjen i. (Foto: Biofuel)

StatoilHydro avviser ansvar for problemer

TAUST: StatoilHydro vil ikke kommentere saken overfor Aftenbladet eller svare på spørsmål, ifølge informasjonssjef Øistein Johannessen i forretningsområdet Ny Energi. Men i en skriftlig uttalelse selskapet har sendt oss, avviser de at StatoilHydro er medansvarlig for den finansielle situasjonen Biofuel er kommet i og for mulige tap av historiske investeringer.

– StatoilHydro har aldri

vært medeier i selskapet, vi har kun vært én av flere potensielle investorer. Det er derfor urimelig å tillegge StatoilHydro ansvar for selskapets situasjon, heter det blant annet i uttalelsen som også kommer inn på årsaken til at selskapet valgte å ikke investere i Biofuel i Ghana.

«Det ble kommunisert til representanter for både Biofuel og eierselskapet Perennial at beslutningen var basert på en vurdering av flere forhold».

«Vi har ikke holdt noe skjult, og vi har formidlet informasjon og våre vurderinger direkte til selskapet. Vi har ikke på noe tidspunkt rettet anklager mot enkeltpersoner involvert i noen av selskapene».

Vi mener tvert imot å ha bistått selskapet og eiere i den grad som må anses rimelig og naturlig for å bringe klarhet i faktiske forhold, gitt StatoilHydros beslutning om å ikke å gå videre med investeringene.

Penger til vind

ENOVA: Tiltakspakken fra Regjeringen har gitt Enova mulighet til å utlyse flere søknadsrunder innenfor alle sine områder. Denne ekstra utlysningen skal bidra til å få frem flere vindkraftprosjekter i Norge. Enova forventer å bruke om lag 2,5 milliarder kroner på vindkraft de neste to årene, inntil målet på 3 TWh er nådd. Til nå har Enova støttet om lag 1,4 TWh.

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I Ghana. Nå kjemper gründerne for redde selskapet som styreflertallet vil avvik-

– Ingen hjelp fra StatoilHydro

TOMHET: – Jeg sitter igjen med en enorm tomhetsfølelse etter å ha jobbet med fantastiske folk i et fantastisk prosjekt som åpner store muligheter for folk i Ghana, sier administrerende direktør i Biofuel Johan Fredrik Dahle.

– Hvem har skylda for at det gikk som det gikk?

– Det hele er en følge av prosessen StatoilHydro startet mot oss og som endte med korrupsjonsmistanker vi ikke får hjelp

til å renvaske oss fra, sier Dahle.

– Biofuel kunne klart dette om StatoilHydro hadde informert oss om mistankene da de fikk dem.

Da kunne vi bekjempet dem langt tidligere og startet arbeidet mot andre investorer tidlig nok til å få inn nye. Vi finner det også merkelig at StatoilHydro ikke har vært villig til å hjelpe oss ut av uføret de førte oss inn i. Det er uforståelig og beklagelig, sier Dahle.

StatoilHydro avviser ansvar for problemer

StatoilHydro mener at anklagene mot selskapet er urimelige.

Av **Arnt Even Bøe**

Publisert: 4. mars 2009

 Denne artikkelen er over 16 år gammel

StatoilHydro vil ikke kommentere saken overfor Aftenbladet eller svare på spørsmål, ifølge informasjonssjef Øistein Johannessen i forretningsområdet Ny Energi.

Men i en skriftlig uttalelse selskapet har sendt oss, avviser de at StatoilHydro er medansvarlig for den finansielle situasjonen Biofuel er kommet i og for mulige tap av historiske investeringer.

Svarer på epost

— StatoilHydro har aldri vært medeier i selskapet, vi har kun vært én av flere potensielle investorer. Det er derfor urimelig å tillegge StatoilHydro ansvar for selskapets situasjon, heter det blant annet i uttalelsen som også kommer inn på årsaken til at selskapet valgte å ikke investere i Biofuel i Ghana.

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Ingenting å skjule

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Vi mener tvert imot å ha bistått selskapet og eiere i den grad som må anses rimelig og naturlig for å bringe klarhet i faktiske forhold, gitt StatoilHydros beslutning om å ikke å gå videre med investeringen».

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På korrupsjonsjakt i Ghana



GLEDE OG NYTTE: Lokalbefolkningen dyrker mais mellom jatropha-plantene. Til glede og nytte for dem selv og Biofuel. Aftenbladet mener StatoilHydro må bidra til å bekrefte korrupsjonsmistankene eller legge dem døde. (Foto: Biofuel)

BIOFUEL: Mens gründerne vil gjøre enda et forsøk på å holde liv i selskapet, har styreflertallet i Biofuel i Stavanger kastet kortene og begjært oppbud. Selskapet mangler penger for videre drift.

Håpet var at de skulle komme fra StatoilHydro, men den gang ei. Bakgrunnen for den kompliserte saken er at StatoilHydro har mottatt opplysninger som kan tyde på at Biofuel kan ha vært involvert i korrupsjon i Ghana.

DERMED HAR DET som kunne blitt et eksemplarisk business- og bistandsprosjekt kommet i en svært vanskelig situasjon. Stanser aktiviteten i Ghana, mister flere hundre ghanesiske familier faste inntekter. Risikoen er også stor for at det som er bygget opp av vannforsyning, maismøller, skoletilbud og medisinsk hjelp i området, raskt forvitrer. Også klimagevinsten biooljeprosjektet vil gi ved reduserte utslipp fra Europas veitrafikk, kan utebli.

MILJØ- OG UTVIKLINGSMINISTER Erik Solheim

Slik saken står nå, virker det som om StatoilHydro har kastet babyen ut med vaskevannet.

har besøkt Ghana flere ganger og uttalt seg positivt om biooljesatsingen der. Han mener denne type utenlandske investeringer bidrar til å styrke Ghanas posisjon som et av de ledende demokratier i Afrika og karakteriserer landet som en rollemodell for regionen.

Biofuels plassjef på farmen i Sugakope, Ove Martin Kolnes, beskrev i et åpenhjertig brev i gårsdagens avis båndene som er knyttet til lokalbefolkningen, hvorledes norske fordommer har fordunstet og ikke minst om kampen mot korrupsjonen. Paradoksalt nok er det også den som kan bli Biofuels bane.

INGEN KAN KLANDRE StatoilHydro for at selskapet driver en offensiv kamp mot kor-

rupsjon. Tvert om fortjener også Forusbedriften ros for alle tiltak som kan utrydde ondet. Men det er et tankekors om nettopp den prisverdige korrupsjonsjakten urettmessig kan ha rammet Biofuels satsing i Ghana.

Ifølge Biofuel har selskapets største problem vært at det ikke får hjelp av StatoilHydro til å tilbakevise korrupsjonsmistankene. Hvis StatoilHydro har gode grunner for det, burde de ikke ha viderebrakt mistankene før innholdet var kvalitetssikret. Videre arbeid på dette sporet kan kanskje føre til en avklaring slik at mistankene blir droppet – eller at de i det minste framstår slik at det går an for de anklagede å forsvare seg mot dem.

SLIK SAKEN STÅR nå, virker det som om babyen er kastet ut med badevannet. Det bør StatoilHydro gjøre noe med for å sikre seg at jakten mot korrupsjon ikke framstår som viktigere enn bekjempelsen.

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Økonomi

Se også: aftenbladet.no/energi

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Rederkrav om loslette

OSLO: Prisøkningen på losjenester irriterer norske redere. Nå krever rederne gebyrkutt og effektivisering. I en felles uttalelse fra Fraktestyrerens Rederforening, Maritimt Forum og Norges Rederforbund hevdar næringen at gebyrene for losjenester har økt med mer enn 70 prosent for enkelte skip i løpet av noen få år, hevder rederne. (NTB)

NYTT PROFESSORAT: Norske Shell har gitt et gaveprofessorat i anvendt matematikk til UiS. I praksis går det til Institutt for petroleumsteknologi og gjelder numeriske metoder og analyser spesielt rettet mot petroleumstekniske anvendelser.

StatoilHydro's korrupsjonsmistanker:

To skal ha blitt bestukket



I FARE: Biodiesel-prosjektet i Ghana kan gå dukken. (Foto: Biofuel)

Korrupsjonsmistankene fra StatoilHydro går ut på at to personer skal ha fått bestikkelser. De omtales som mann med «eye-glasses» og «Mr. XX» – i landet som heter «YY».

Arnt Even Bøe tekst

SITAT: Aftenbladet kjenner til det sitatet StatoilHydro skal ha fått fra sine britiske korrupsjonsjeger. Opplysningene her kan ha vært avgjørende for at StatoilHydro ikke gikk inn i det norske biooljeselskapet Biofuel i Ghana. Sitatet skal foreligge skriftlig og være skrevet på engelsk. Det skal angivelig komme fra et styremedlem i Perennial, Biofuels største eier. Begge biooljeselskapene har base i Stavanger.

Sitatet, som omtales som «Quote A», kan neppe oppfattes som annet enn en beskrivelse av bestikkelser hvor to forskjellige personer får penger.

Hovedpersonen er en ikke

SAKEN

StatoilHydro gikk ikke inn på eiensiden i Biofuel som uten nye penger nå er på gravens rand.

navngitt person med «eyeglasses». Han beskrives som medlem av en «Commission» som skal deregulere hele lisenssystemet (licensing system) «in country YY».

FRIENDS: Denne personen sier i sitatet at med «a little bit of money» skal alt bli bra. Han skal deretter ha fått en angitt pengesum som ble overlevert i en konvolutt. Da smilte mannen bredt og sa ifølge sitatet til givene at de kunne betrakte seg som hans venner.

Folk som kjenner Ghana stusser over at sitatet kan ha relevans til Biofuels eller annen landbruksvirksomhet i landet. Årsaken er, etter det Aftenbladet kjenner til, at det ikke trengs lisens for å drive landbruksvirksomhet, som dyrkingen av biooljeplanten jatropha, i landet.



BIODIESEL: Jatropha er en oljeplantevekst som Biofuel vil satse på for å lage biodiesel. (Foto: Biofuel)

Lisens skal derimot være nødvendig for gruve- og oljevirksomhet.

KRITIKK: Biofuel har tidligere blitt kritisert for ikke å ha innhentet miljøtillatelse fra myndighetsorganet EPA, Environmental Protection Agency i Ghana. Dette ble tatt opp i TV2-nyhetene i høst. I etterkant sa Bi-

ofuel til Aftenbladet (28/11-08) at de begynte med jordrydding for tidlig i Yapei på grunn av en misforståelse, men at alt nå var ordnet opp i. Det fikk Aftenbladet bekreftet via telefon i EPA.

Av «Quote A» framgår det også at Perennial skal ha hatt en egen kontaktpersoner i området, for å opprettholde «confidential contacts to the Governments of the area».

MR. XX: Denne «Mr. XX» skal ha bedt om 10 prosent av den summen «brillemannen» fikk. Det var ifølge sitatet mye penger, men til tross for det fikk «XX» dem slik at givene kunne starte sitt arbeid umiddelbart.

Til slutt heter det at «Mr. XX» er valgt som samarbeidspartner fordi han er en svært «reputable» mann i ulike land i regionen, har mange forbindelser og kan bli «relevant for our company in the near future».

Ifølge informasjon Aftenbladet sitter på skal det i prosessen ha kommet fram hvem «Mr. XX» kan være.

Vedkommende skal ikke være fra Ghana, men fra et annet afri-

That man, I don't remember his name but he had eyeglasses, assure us that with a little bit of money everything would be alright.

Angivelig sitat fra et styremedlem i Perennial.

kansk land. Ingen i Perennial eller Biofuel skal ha knyttet dette navnet opp mot sin virksomhet i tidligere eller nåværende bioolje-prosjekter.

Det har ikke lyktes Aftenbladet å bringe klarhet i hvem som har fjernet navnene i sitatet. Det kan neppe være andre enn byrået som har samlet inn opplysningene for StatoilHydro, eller selskapet selv.

Uansett gjør det ikke renvasningsforsøkene fra Perennials og Biofuels side enklere når også navnet på landet der bestikkelsen skal ha foregått holdes skjult for dem som rammes av beskyldningene.

Se også LEDER side 2.

Økonomi

Se også: aftenbladet.no/energi

Leder: Kolbjørn Andreassen. Tlf. 952 82 808. Epost: naering@aftenbladet.no

Mjølkk eller melk?

MÅLFØRM: Mjølkk eller melk på kartongen? Tine Meierier skal mandag i møte med Noregs Mållag og presentere konsernets målstrategi. - Jeg er utrolig spent på hva det ender opp med, og håper at det blir mer nynorsk på mjølkeproduktene, sier Hege Myklebust, leder i Noregs Mållag, til Nationen.



GRENSEHANDEL: Det ble foretatt 5,8 millioner dagsturer til utlandet i fjor, en nedgang på sju prosent fra året før, men det ble handlet for mer penger per tur enn i tidligere år. Totalt ble det handlet for 8,9 milliarder kroner, skriver Nationen.

BIOFUEL-SAKEN

- De kan ikke løpe fra ansvar

- Det eneste vi ønsker er at StatoilHydro gjør jobben ferdig. De kan ikke løpe fra ansvaret nå, sier John Peter Hernes om korrupsjonsbeskyldningene.

Arnt Even Bøe skrev

MISTANKER: Han er styreleder i Perennial, Biofuels største eier. Det er et medlem av dette styret StatoilHydros korrupsjonsmistanker fra Ghana er rettet mot. Hernes har vansker med å forstå selskapets tenke- og handlemåte i denne saken.



- Den startet med at StatoilHydro videregjorde korrupsjonsmistanker uten videre. Siden selskapet står ansvarlig for disse opplysningene, overrasker det meg at de som kom med dem, slapp så lett unna. For Biofuel kan dette ha vært et dødsdyss. Derfor er det en gåte at ikke StatoilHydro gjennomførte en kvalitetssikring før de gikk videre i en så alvorlig sak, sier Hernes.

STYRELEDER: John Peter Hernes.

Det som bekymrer meg er StatoilHydros manglende vilje til å bevise korrupsjonsmistankene eller legge dem døde.

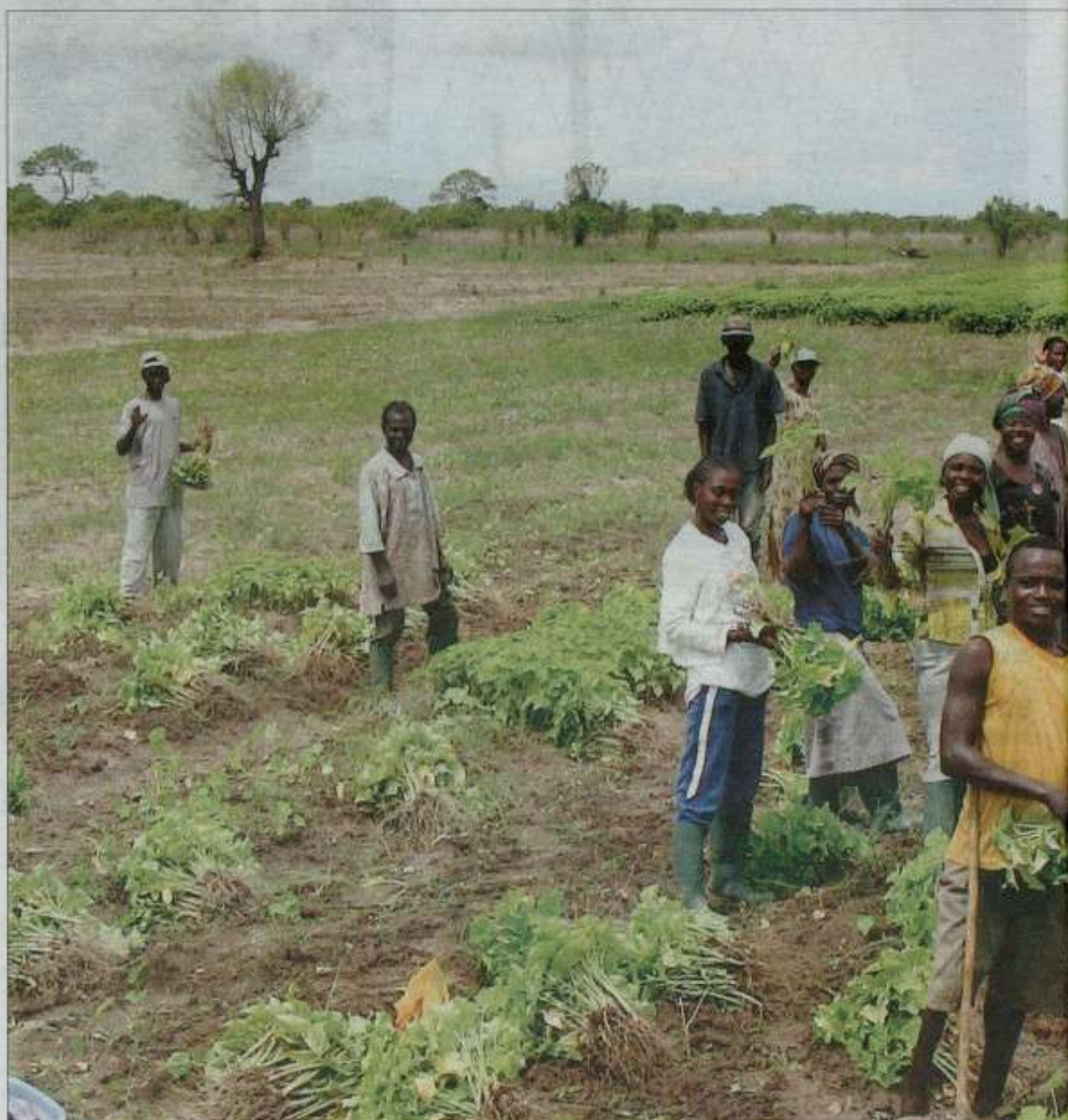
John Peter Hernes, styreleder i Perennial

TAUST: Han mener ansvaret uansett ligger hos StatoilHydro og er svært overrasket over at selskapet ble mer og mer lukket når det gjelder å gi informasjon i denne saken.

I en lang periode svarte de verken på e-post eller telefonbeskjeder.

- Først etter at Perennial-styret skrev brev til konsernsjef Helge Lund og understreket hvor alvorlige beskyldningene var for de involverte, fikk vi skikkelig kontakt med selskapet.

ALLER NÅDIGST: Den resulterte i at vi aller nådigst fikk lov til å kontakte korrupsjonsjeger-selskapet i London via en utenforstående tredjepart som ble pålagt en rekke restriksjoner. Slik



JOBBER I FARE: Ansatte i arbeid med unge jatropha-planter på Biofuels første dyrkingsområder i Ghana. (Foto: Biofuel)

■ Styreleder i Perennial kritisk til StatoilHydro

fikk vi ut at det skal ha vært Perennials styremedlem Trygve Refvem som skal være kilden til korrupsjonsmistanken, forteller Hernes, som legger til at StatoilHydro nå er like tause som før.

Refvem har i intervju med Aftenbladet avvist anklagene. Hernes sier at StatoilHydro et stykke på vei har bistått Biofuel

For Biofuel kan dette ha vært et dødsdyss.

John Peter Hernes, styreleder i Perennial

og Perennial for å bringe «klarhet i faktiske forhold», som de hevder.

FEIL: - Men det hjelper lite, når StatoilHydro ikke engang ønsket å motta vår rapport som viser at det er overveiende sannsynlig at det selskapets leverandør har videregitt må være feil.

Det som bekymrer meg er StatoilHydros manglende vilje til å bevise korrupsjonsmistankene eller legge dem døde.

Dette er en sak som kun kan løses ved at «korrupsjonsjegerne» StatoilHydro har engasjert, gjør det de skulle gjort fra starten, nemlig sjekker saken ordentlig ut.

- Hva betyr saken for Perennial?

GA FLØYTEN: - I verste fall kan vi

Klimanøytrale beitedyr

HUSDYR: Forskere fra ni EU-land mener gressbasert kjøttproduksjon er tilnærmet klimanøytral. De konkluderer med at karbonlagringen i gressmarken der sau og storfe beiter dekker alle klimautslippene fra dyrene. Forskerne fant i noen tilfeller at aktiviteten til og med kunne være klimapositiv.

Frifinner biffen

MILJØ: Forskningsrapporten som frikjenner storfe som klimasynder får miljøorganisasjonen Grønn hverdag til å revurdere sin egen biff-kritikk. – Funnene gir klare indikasjoner. Ny kunnskap er alltid bra, og den må vi ta på alvor, seier daglig leder Tone Granaas i Grønn hverdag.

ret



SAKEN

StatoilHydro investerer ikke i Biofuel etter at selskapet satte fram korrupsjonsmistanker mot Perennial.

måtte legge virksomheten vår på is i påvente av bedre tider. Investorene står ikke i kø foran selskap som har slike mistanker hengende over seg.

Men det som bekymrer meg mer, er at Biofuels glimrende klima- forretnings- og bistandsprosjekt i Ghana kan gå fløyten.

Det vil ikke bare være et tap for dem som arbeider på jatropa-plantasjene, men også for energihovedstaden Stavanger som kan bruke mye av sin kunnskap fra vanlig olje på storskala håndtering av bioolje, sier John Petter Hernes.

Biofuel engasjerer på Stortinget

StatoilHydros taushet i korrupsjonssaken engasjerer nå stortingsrepresentanter som forlanger full åpenhet.

Arnt Even Bøe tekst

ANSVAR: – Det bekymrer meg at Biofuel sier de ikke har fått tilstrekkelig informasjon om korrupsjonsmistankene de er konfrontert med.

Derfor ber jeg olje- og energiminister Terje Riis-Johansen, som StatoilHydros største eier, å minne selskapet om ansvaret det har og hvorledes det skal forholde seg til sine samarbeidspartnere og norsk industri, sier stortingsrepresentant Torbjørn Hansen (H).

Han sitter i Næringskomiteen fra Hordaland og tar Biofuel-saken opp i Stortinget fordi han er opptatt av at StatoilHydro ikke skal misbruke sin dominerende størrelse og makt etter fusjonen.

DOKUMENTASJON: – Når selskap går ut med så alvorlige anklager som i dette tilfellet, tar jeg det for gitt at de har tilstrekkelig dokumentasjon for dem. Denne informasjonen må nå ut, sier Hansen.

Også leder i Stortingets energi- og miljøkomité, Gunnar Kvassheim (V) fra Rogaland, kritiserer StatoilHydros tilbakeholdenhet.

– Så vidt jeg skjønner har verken Perennial eller Biofuel noe ønske om at informasjon skal holdes tilbake i denne saken. Derfor ser jeg ingen grunn til at ikke StatoilHydro skal gå ut med det de vet, sier Kvassheim.

Biofuel har som kjent skrevet brev til alle Rogalands stortingsrepresentanter og bedt dem bidra til å legge press på StatoilHydro for å få fram alle relevante opplysninger.

ÅPENHET: – Vi har som politikere ingen mulighet til å instruere StatoilHydro. Jeg har heller ingen forutsetninger for å ta standpunkt til enkeltheter i denne konkrete saken. Men jeg har fulgt med i Aftenbladet og mener det også i dette tilfellet er best med mest mulig åpenhet. Bare slik får vi et riktig grunnlag for en meningsfull samfunnsdebatt om slike viktige spørsmål, sier Kvassheim.

Frps Ketil Solvik-Olsen sier han ikke har rukket å lese brevet i detalj, men føler politikerne ikke er rette instans til å rydde opp i en konflikt mellom to parter.

**BioFuel AS**

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Post address:

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NO-4014 Stavanger, Norway

E-mail: info@biofuel.no

Fax +47 51 89 13 12

StatoilHydro ASA

Legal Department

Forusbeen 50

NO-4035 Stavanger

Att: Siv Helen Rygh Torstensen

Stavanger 6. Mars 2009

Ang. oppslag i Stavanger Aftenblad.

Undertegnede er medgründer, eier og nå daglig leder i selskapet BioFuel AS (heretter BF).

I forbindelse med diverse presseoppslag i Stavanger Aftenblad, herunder førsteside oppslaget den 23. Februar med overskriften: *"Korrupsjonsmistanker mot Biofuel - StatoilHydro mistenker et Stavanger-basert biooljeselskap for korrupsjon i Ghana."* ser vi at informasjonsjef Øistein Johannessen ikke ønsker å kommentere hva StatoilHydro vil gjøre for å frita syv av Perennial Bioenergy's styremedlemmer fra korrupsjonsanklagene.

Ref. også internett: http://www.aftenbladet.no/energi/olje/992288/Droppet_Biofuel.html

Gitt at spørsmålet som ble stilt, og at Øistein Johannessen er riktig gjengitt, tolker vi dette dit hen at StatoilHydro (heretter SH) **bekrefter** at det per 23.2.09 fortsatt er mistanke rettet mot selskapene BioFuel, Perennial Bioenergy (heretter PB) og/eller personer i nær tilknytning til selskapene.

I så fall er vår oppfatning i tråd med hva som ble konfrontert vår tidligere daglig leder Johan Fredrik Dahle og Odd Even Bustnes i Perennial Bioenergy i møte hos SH den 30.1.09. Møtet var med StatoilHydro's Business integrity, ved Michael Price og Stephanos G. Oretis. På dette møte ble det for første gang fremlagt det som ble kalt: "Quote A" og videre at Mr. XX var Fassine Fofana. Samtidig ble det bekreftet at et av i alt 7 styremedlemmer i PB skulle ha deltatt i den angivelige transaksjonen beskrevet i "Quote A". I de etterfølgende dagene ble det sendt en del informasjon til SH fra både PB og BF for å komme til bunns i saken. Allerede den 9. Februar, ble Helge Lund informert om saken.

Den 19. Februar, fikk Johan Fredrik Dahle og Arne Helvig en mulighet til å møte Ann Elisabeth Serck Hanssen, Anna Nor Bjerke og Sjur Haugen på SH's kontor i Oslo, hvor SH kunne være villig til å se på prosjektet på nytt. På dette møte ble det bekreftet at SH hadde vendt tomme ned med begrunnelsen "en helhetlig vurdering", noe som også har fremkommet i media.

Imidlertid ble det også flagget at SH kunne vurdere et nedskalert "lærings case", men dette forutsatte at korrupsjonsanklagen ble sjekket ut. Det var altså på det rene at mistanken fortsatt var til stede på dette tidspunkt. Parallelt ble det arbeidet iherdig med en rapport utarbeidet av en 3dje person som etterforsket saken på vegne av BF og PB. Rapporten: Joint Investigative Report (JIR) av 23. Februar 2009, konkluderer med at de påståtte handlinger ikke kan ha skjedd. Her fremgår det også at "Company X" som er det selskapet i London som SH har hyret. Ikke bare bekreftes anklagen mot Trygve Refvem, men Company X nevner nå også Finn Byberg, styremedlem i BioFuel AS, som en som "most likely" kunne kjent til



saken. Rapporten er overlevert SH. Etter det jeg forstår har ikke SH villet gå igjennom denne rapporter og mange spørsmål står fortsatt ubesvarte.

Basert på ovenstående hendelsesforløp, stiller vi oss undrende til Deres utsagn i Stavanger Aftenblad den 4. Mars 2009, hvor De hevder: *"Vi har ikke holdt noe skjult, og vi har formidlet informasjon og våre vurderinger direkte til selskapet. Vi har ikke på noe tidspunkt rettet anklager mot enkeltpersoner involvert i noen av selskapene."* I tillegg gjentar også Øistein Johannessen i brev til Rogalandsbanken den 6. Mars: *"Vi har ikke på noe tidspunkt rettet anklager mot enkeltpersoner i noen av selskapene"*.

Samtidig er det med glede at vi nå opplever at PB, BF og enkeltpersoner involvert i disse selskapene, endelig er frikjent fra SH's side.

Vår utfordring er at det har medgått mye tid (over en måned), hvor både BF og PB har opplevd en meget vanskelig tid, iom. at alle andre potensielle investorer har mistet interessen, eller i beste fall lagt prosjektet på is i påvente av at korrupsjonspåstandene skal bli sjekket ut. Det er derfor svært viktig at SH handler raskt for å begrense ytterligere skade. I den forbindelse vil jeg også vise til vedlagt brev fra FIRST Securities.

Det er også på det rene at slike alvorlige påstander som har fremkommet gjennom DD prosessen med SH, også har måttet flagges til andre potensielle investorer, på samme måte som BF ville vært forpliktet å flagge overfor SH, i tilfelle vi skulle være kjent med at slike påstander kom frem i samarbeid med andre.

Som en konklusjon på dette brev krever vi at:

- 1) SH offentlig beklager og dementer alle korrupsjonsmistanker som måtte være mot PB, BF og personer involvert i disse.
- 2) SH i brevs form tilskriver selskapene Perennial Bioenergy AS og BioFuel AS, med en beklagelse og klar bekreftelse på at eventuelle tidligere korrupsjonsanklager er sjekket ut og at BF og PB er frikjent
- 3) StatoilHydro i samme brev, bekrefter at korrupsjonsanklagene ikke har vært med i totalvurderingen når beslutningsgruppen i New Energy tok sin endelige beslutning.

Ellers ber jeg også om svar på:

- 4) Er det slik at SH ønsker å styre sin virksomhet basert på "hearsay evidence"?
- 5) Hvordan ville SH reagert dersom SH selv hadde blitt offer for anonym og upresis informasjon som ikke var mulig å motbevise og som skadet SHs omdømme vesentlig?
- 6) Vil SH endre sine rutiner for bruk av eksterne Service Providers på bakgrunn av denne saken? Hvis ja, hvorfor?



- 7) SH må selv ta ansvar for hvordan SH bruker sine underleverandører og ikke minst valg av underleverandør. Kan SH stå inne for å bruke underleverandører som kan fremsette slike alvorlige opplysninger uten tilstrekkelig understøttende dokumentasjon?

Jeg legger også med en kopi av dokumentet: Joint Investigative Report (JIR) som tidligere er avvist av SH og hvor alle spørsmål i Appendix 6 fortsatt står ubesvarte.

Investor er StatoilHydro AS

Company X er SH's eksterne Service Provider som er opphav til "Quote A", firmanavn og personnavn.

Iom. Selskapene PB og BF er i en meget vanskelig økonomisk situasjon, som følge av disse tidligere korrupsjonsmistankene, ber jeg at SH's svar er meg i hende innen utgangen av Torsdag den 12. Mars 2009.

Ved eventuelle spørsmål underveis kan De kontakte meg på tlf: 90042374 eller email: steinar@biofuel.no

Med vennlig hilsen

Steinar Kolnes
Daglig leder Biofuel AS

Kopi: Olje og Energi Departementet ved Terje Riis-Johansen.

StatoilHydro og Biofuel



FØRSTE FORSØK: Ansatte i arbeid med unge jatropha-planter på Biofuels første dyrkingsområde på selskapets testfarm i Sugakope. (Foto: Biofuel)

Aftenbladet har den siste uken publisert flere artikler om situasjonen i Biofuel AS og selskapets aktivitet i Ghana.

DEBATT

Øistein Johannessen
Informasjonssjef Ny Energi,
StatoilHydro



Delar av omtalen har vært knyttet til StatoilHydros beslutning om ikke å investere i selskapet. Med bakgrunn i informasjon og påstander som er fremkommet i artiklene, ønsker vi å gi enkelte kommentarer.

STATOIL HYDRO HAR det siste halve året vurdert en minoritetsinvestering i Biofuel AS for å delta i utviklingen av jatropha bioolje i Ghana. Det er ikke korrekt at StatoilHydro har valgt å la være å investere i Biofuel som følge av bakgrunnsundersøkelsen det refereres til i mediene. Ut fra en helhetlig forretningsmessig vurdering ble det besluttet ikke å gå inn på eiersiden i selskapet; noe som også ble kommunisert til representanter for Biofuel og eierselskapet Perennial.

Før endelig investeringsbeslutning

foretok StatoilHydro på vanlig måte en helhetlig gjennomgang (due diligence) av selskapet. Dette kommer i tillegg til øvrige ordinære prosesser for å forberede et bredt grunnlag for beslutning. Slike gjennomganger inkluderer også selskapets integritet. StatoilHydro bruker i enkelte slike gjennomganger eksterne leverandører til å gjennomføre slike bakgrunnsundersøkelser.

Det er gjengitt i mediene at StatoilHydros leverandør gjorde et funn som kunne indikere at uregelmessigheter hadde forekommet. StatoilHydro fant det riktig å dele denne informasjonen med Biofuel AS. Etter ønske fra Biofuel AS har vi bidratt til at de kunne få ytterligere bakgrunnsinformasjon. I denne forbindelse har vi fasilitert direkte dialog mellom vår underleverandør og selskapenes advokat.

VI FORMIDLET i denne forbindelse at vi ikke så det som naturlig at StatoilHydro bidro som part i en slik prosess,

Det er ikke korrekt at StatoilHydro har valgt å la være å investere i Biofuel som følge av bakgrunnsundersøkelsen det refereres til i mediene.

ettersom vi hadde valgt ikke å investere i Biofuel AS. Etter vår vurdering er vår bistand i tråd med det som er rimelig og naturlig å forvente når en ikke går videre med en investering.

Det har vært antydning at StatoilHydro er medansvarlig for den finansielle situasjon selskapet er kommet i, og for mulige tap av historiske investeringer. Dette er ikke riktig. StatoilHydro har aldri vært medeier i selskapet; vi har kun vært én av flere potensielle investorer. Virksomheten i Biofuel AS har vært drevet i flere år. Biofuel har på selvstendig grunnlag valgt å føre forhandlinger med StatoilHydro. Det er derfor urimelig å tillegge StatoilHydro ansvar for selskapets situasjon. Det ansvaret ligger selvsagt til enhver tid hos selskapets ledelse og beslutningsorganer.

STATOIL HYDROS DIALOG med Biofuel og Perennial i denne saken har vært åpen og ryddig. Vi har ikke holdt noe skjult, og vi har formidlet informasjon og våre vurderinger direkte til selskapet. Vi har ikke på noe tidspunkt rettet anklager mot enkeltpersoner i noen av selskapene. Vi mener å ha bistått selskapene og deres eiere i den grad som må anses rimelig og naturlig for å bringe klarhet i faktiske forhold, gitt StatoilHydros beslutning om ikke å gå videre med å investere i Biofuel AS.

Økonomi

Se også: aftenbladet.no/energi

Leder: Kolbjørn Andreassen. Tlf. 952 82 808. Epost: naering@aftenbladet.no

BIOFUEL-DRAMAET

«StatoilHydro hjalp oss aldri»

SAKEN

StatoilHydro fikk korrupsjonsmistanke mot Biofuel i Ghana og avsto fra å investere i biooljeselskapet.

Biofuel avviser at StatoilHydro skal ha hjulpet førstnevnte foretak mot korrupsjonsanklagene og mener anklagene alene var årsaken til bruddet.

Arnt Even Bøe tekst

FAKTAFEIL: – StatoilHydros skriftlige redegjørelse i Aftenbladet mandag inneholder flere faktafeil. Vedkommende informasjonssjef som skrev innlegget kan ikke ha anelse om hva saken dreier seg om. I verste fall fårer selskapet med bevisste usannheter, sier Steinar Kolnes, en av gründerne i Biofuel. Mens StatoilHydro hevder konsernet aldri har kommet med korrupsjonsbeskyldninger i saken, viser Kolnes til møtet fredag 30. januar i år der det berømtelige korrupsjonssittet og navnet på en afrikaner, «Mr. XX», ble oppgitt.

MOTBEVISE: – Etter denne fremleggelsen ba StatoilHydros avdeling for integritet (integrity department), oss motbevise beskyldningene. Hvis ikke det er anklager, vet ikke jeg, sier Kolnes.

Han forteller videre at Biofuels daværende daglige leder måtte trykke om å få mer informasjon, blant annet om hvem som angivelig skulle ha vært involvert fra biooljeselskapets side.

– StatoilHydro sier selskapet hjalp oss med det, men sannheten er en helt annen. Da et styremedlem i vårt eierselskap Perennial (36 prosent) omsider ble utpekt som den mest sannsynlige kandidat, kunne han fortelle at han ikke hadde vært i Ghana siden 2003. Den navngitt afrikaneren har vårt styremedlem truffet en gang i London. Det var i 2006, mens Perennial ble stiftet i mai 2007, sier Kolnes.

TREDJEPART: Han viser også til at Biofuel bare fikk kontakte StatoilHydros kilde for korrupsjonsanklagene via en uavhengig tredjepart, et norsk advokatfirma Biofuel leide inn.

– Da måtte advokaten signere et dokument hvor han forpliktet seg til aldri å oppgi navnet til dette London-baserte selskapet.



NYTT HÅP: De tre gründerne i Biofuel, fra venstre Arne Helvig, Steinar Kolnes med en neve jatropha-nøtter og Finn Byberg. Er de heldige og får eierne med seg, kan ferien i bakgrunnen med tiden bli mer klimavennlig via biodiesel fra Ghana.

Begge parter var til stede, og vi gratulerte hverandre med partnerskapet i form av håndtrykk, i vitners nærvær. Dagen etter, fredag 30. januar, kom korrupsjonsanklagene.

Steinar Kolnes, Biofuel-gründer

Vi vet fortsatt ikke hvem det hemmelige selskapet, som kom med anklagene mot oss, er. Årsaken er trolig at vi som skadelidende ikke skal finne noen å gå til sak mot, sier Kolnes som uttaler seg på vegne av medgründerne Arne Helvig og Finn Byberg.

De mener også det er direkte feil når StatoilHydro påstår at dialogen har vært åpen og ryddig.

ANSVARSRASKRIVELSE: – Vi ser at StatoilHydro prøver å fraskrive seg ansvaret ved at det var et innleid selskap som kom med disse beskyldningene. Hvis dette er Statoils policy, vil jo selskapet kunne skyldes på en underleverandør etter en oljelekkasje, sier Kolnes som også avviser at StatoilHydro kan ha lagt «en samlet

vurdering» til grunn for ikke å investere i Biofuel.

– 10. november 2008 ble det inngått et såkalt term sheet, en avtale som regulerer hvorledes partene skal opptre under forhandlingene. Ikke noen gang i prosessen har det blitt avdekket forhold som er i strid med dette, ingen forhold er blitt stående ubesvart eller ikke godkjent. Bortsett fra korrupsjonsanklagene som vi ikke får forsvare oss mot, sier Steinar Kolnes.

Han viser til den investeringsavtalen som det var enighet om mellom de to selskapene torsdag 29. januar i år i StatoilHydros lokaler i Oslo.

HANDTRYKK: – Begge parter var til stede, og vi gratulerte hverandre med partnerskapet i form av håndtrykk, i vitners nærvær. Dagen etter, fredag 30. januar, kom korrupsjonsanklagene på bordet. Fire dager senere stemte beslutningsgruppen nei til investeringen i Ghana med begrunnelsen:

En helhetlig forretningsmessig vurdering. For det hadde samme beslutningsgruppe to ganger tidligere stemt for å gå videre med prosjektet. Derfor mener vi korrupsjonsbeskyldningene alene er årsaken til at StatoilHydro droppet oss, sier Biofuel-gründeren.

Nytt håp for Biofuel

De tre gründerne i Biofuel fatter nytt håp etter den ekstraordinære generalforsamlingen i går.

Arnt Even Bøe tekst
Fredrik Refvem foto

NYE PENGER: Håpet knyttes til ett av eierselskapene i Perennial som kan være villig til å gå inn i Biofuel med nye penger. Det ble klart på den ekstraordinære generalforsamlingen i Biofuel i går. Det nye avgjørende møtet holdes fredag.

– I første rekke er det snakk om 2,5 millioner raske kroner. Deretter trenger vi totalt 15 millioner de nærmeste fire månedene. Da vil vi være klar til å starte innhøstingen av jatropha-olje fra 12.500 mål i 2011. Den oljen vil ha en brutt overdi på 10-12 millioner kroner året og gi selskapet overskudd, sier gründer Steinar Kolnes i Biofuel.

OPPBUDD: Uten friske penger er det Stavanger-baserte biooljeselskapet ferdig. Flertallet i sty-

BIOFUEL

AKSJONÆRER: Stavanger-basert biooljeselskap.

Perennial har 36 prosent mens de tre gründerne har til sammen 35 prosent. Resten eies av privatpersoner.

STYRET: Styreleder Jan Reinås, Stian Vemmestad og Odd-Even Busnes har trukket seg fra styret og meldt oppbud, mens Arne Helvig og Finn Byberg fortsetter.

PERENNIAL: Eies av Säkoms Invest II, 30 prosent, Rogaland Vekst, 29, Hafslund Venture 22 og Radianee 15 prosent.

ret har allerede trukket seg og meldt oppbud etter at StatoilHydro valgte ikke å gå inn på eiersiden. Dermed er det bare de to gründerne Arne Helvig og Finn Byberg igjen i styret.

Hvem de eventuelle investorene, er vil Kolnes foreløpig ikke oppgi. Men det er selskap som allerede er inne på eiersiden i Perennial, som eier 36 prosent av Biofuel.

Vår dato
2009-03-13

Vår referanse

Deres dato

Deres referanse

StatoilHydro

Biofuel AS
v/ Daglig leder, Steinar Kolsnes
Verven 12C
4014 Stavanger
Norge

Biofuel AS

Vi viser til ditt brev av 6.mars 2009 samt telefonsamtale med Ann-Elisabeth Serck-Hanssen og Øistein Johannessen.

StatoilHydros beslutning om ikke å investere i Biofuel AS er basert på en helhetlig forretningsmessig vurdering av prosjektet og ikke knyttet til et enkelt forhold. Vi viser i denne forbindelse til tidligere kommunikasjon med representanter for både Biofuel AS og eierselskapet Perennial AS.

StatoilHydros dialog med Biofuel og Perennial i denne saken har vært åpen og ryddig. Vi har ikke holdt noe skjult, og vi har formidlet informasjon og våre vurderinger direkte til selskapet. Vi har ikke på noe tidspunkt rettet anklager mot enkeltpersoner involvert i noen av selskapene. Vi mener å ha bistått selskapet og eiere i den grad som må anses rimelig og naturlig for å bringe klarhet i faktiske forhold, gitt StatoilHydros beslutning om å ikke å gå videre med investeringen.

Med vennlig hilsen
StatoilHydro ASA



Siv Helen Rygh Torstensen
SIHRYT@StatoilHydro.com

Selskap
StatoilHydro ASA

Foretaksregister
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Internett
www.statoilhydro.com

Blåtunge-sjekk også av småfe

UTBRUDD: Etter at kartleggingen av blåtunge så langt har vært konsentrert om storfe i sperre- og risikosonen etter utbruddene i Vest-Agder, skal Mattilsynet nå sjekke småfe i sperresonen i Vest- og Aust-Agder. Totalt skal det tas blodprøver av 10.500 sau og geit fordelt på 470 besetninger.

Død delfin på Solastranden

VAR SKADET: En leser fant torsdag en død, delfin på Solastranden. Det så ut til å være en kvitnos. — Den er cirka én og en halv meter lang, og den har vært utsatt for angrep, fra en hai eller noe, sier driftsleder Annstein Pollestad i Parkavdelingen i Sola kommune.

**Innbrudd i Tårngalleriet**

STJAL: Politiet har tatt to personer midt i 20-årene mistenkt for innbrudd hos Hud — Han og Henne i Tårngalleriet i Stavanger. De to ble sett på overvåkingskamera i området, etter at hadde hatt besøk av uvedkommende som hadde stjålet 500 kroner fra kassen. Episoden skjedde ved 20-tiden i går.

StatoilHydro anmeldt

Det ble i går åpnet konkurs i Biofuel AS. Samtidig anmeldte selskapet StatoilHydro for falske korrupsjonsanklager.

Erlend Frajford i skat.

STAVANGER: — Våre advokater forbereder også et erstatningssøksmål mot StatoilHydro. Men dette må i så fall alle aksjonærene stille seg bak, sier gründer Steinar Kolnes i Stavanger-baserte Biofuel AS etter konkursåpningen i går. Han sier at Biofuel ble priset til 107 millioner kroner i 2007, verdier han nå mener er blåst bort.

— Landområdene i Ghana er så godt som verdiløse for oss uten produksjon. Og nå frykter vi hva som vil skje med plantasjonen. Inntil videre må vi ha vakter til stede for å unngå branner og plyndring av produksjonsutstyr, sier Kolnes.

Videre mener Steinar Kolnes at Biofuel gikk glipp av en kontrakt med et annet selskap, verd 600 millioner dollar, fordi de heller valgte å gå i dialog med StatoilHydro. Kontrakten Kolnes sikter til er leveranser av 950.000 tonn bioolje fram til 2020.

— SKREMT BORT: Da Aftenbladet skrev om korrupsjonsanklagene ble alle potensielle investorer skremt bort, ifølge Kolnes.

— Vi har jobbet hele uken med å få investorer på banen, både et eierselskap til Perennial og andre investorer. Men beskyldningene fra StatoilHydro har ødelagt alt for oss, hevder Kolnes.

I Aftenbladet onsdag sa Steinar Kolnes at selskapet trengte 2,5 millioner kroner raskt, og 15 millioner kroner de neste fire månedene for å kunne starte innhøstingen av Jatropha-olje fra 12.500 mål i 2011.

— Oljen med en bruttovertdi på 10-12 millioner kroner i året, hadde gitt selskapet overskudd, sier Kolnes.

STOR UENIGHET: Selskapets opprinnelige håp var at StatoilHydro skulle gå inn med midler for å sik-



SMILENE HAR STIVNET: De tre gründerne i Biofuel, fra venstre Arne Helvig, Steinar Kolnes med en neve Jatropha-netter og Finn Byberg, hadde så seint som onsdag optimismen i behold. Men i går ga de opp forsaket på å investere med seg. Dermed havner selskapet i skifteretten. (Foto: Fredrik Refvem)

re videre drift. StatoilHydro har i Aftenbladet opplyst at selskapet det siste halvåret vurderte en minoritetsinvestering i Biofuel AS for å delta i utviklingen av biooljen i Ghana. I den forbindelse gjennomførte StatoilHydro en analyse av Biofuel, en såkalt Due Diligence.

StatoilHydros offisielle konklusjon var at de ikke skulle gå inn i selskapet på bakgrunn av en «helhetlig forretningsmessig vurdering», altså ikke på bakgrunn av korrupsjonsanklager. Dette ble poengtert av Øistein Johannesen, informasjonssjef Ny Energi i StatoilHydro i et innlegg i Aftenbladet 9. mars.

SKIFTESAMLING I APRIL: I et debattinnlegg to dager seinere avviser Steinar Kolnes dette. Han hevder at Michael Price i StatoilHydros integrity department kunne bekrefte overfor Biofuel at et navngitt styremedlem i Perennial skulle være involvert i bestikkelser. Advokat Magnus Jonsbråten er oppnevnt som hostyrer for konkursboet til Biofuel AS. Dato for første skiftesamling er satt til 29. april klokken 09.00 i Stavanger tingrett.

Største kreditor er Perennial som har rundt 8 millioner kroner til gode i konkursboet.

Landområdene i Ghana er så godt som verdiløse for oss uten produksjon.

Steinar Kolnes, Biofuel-gründer

BIOFUEL-SAKEN

FULL STORM: Biofuel AS som driver med biooljeproduksjon i Ghana, kom i hardt vær tirsdag 24. februar. Da skrev Aftenbladet at StatoilHydro beskyldte et styremedlem i Perennial Bioenergy for bestikkelser på Biofuels vegne. Perennial Bioenergy er største eier i Biofuel med 36 prosent av aksjene.

GHANA: Biofuel disponerer enorme områder i Ghana hvor det har plantet ut den oljeholdige og hardføre Jatropha-busken. Selskapet har så langt investert over 60 millioner kroner i det afrikanske landet, men trenger mye mer kapital for å realisere prosjektene sine.

KLIMAMÅL: Biooljen fra Jatropha-planten skal raffineres til drivstoff og tilsettes vanlig diesel for å gjøre de europeiske bilene mer klimavennlige. EUs mål er å ha 10 prosent biofuelinnblanding innen 2020.

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Vierdal advokatfirma AS bistår næringsdrivende, organisasjoner og privatpersoner med rådgivning og tvisteløsning innenfor de fleste juridiske felt med hovedvekt på fast eiendoms rettforhold, forretningsjus, bobehandling, generasjonsskifte og prosedyre. Gjennom vår felles kompetanse løser vi alltid å finne den beste løsning for klienten. Firmaet har 14 medarbeidere, hvorav 10 advokater. Firmaet holder til i tidmessige lokaler vis å vis Stavanger Tingshus.

Vi har gledet av å meddele at

Advokat Liv Shelby

er nyansatt i vårt firma fra den 9. Mars 2009.

Liv Shelby har tidligere bakgrunn fra Advokatfirma Thommesen, Stavanger Tingsrett og Aker Solutions ASA.

I tillegg kan vi meddele at

Advokat Hege Oftedal

er tilbake som advokat i firmaet etter endt permisjon, fra den 1. April 2009.

POSTADRESSE: POSTBOKS 719, SENTRUM • 4003 STAVANGER
BESØKSADRESSE: BERGELANDSGATEN 13 • 4003 STAVANGER
TELEFON 51 91 75 00 • TELEFAKS 51 91 75 01 • WWW.VIERDAL.NO

Steinar Kolnes

Fra: Thomas Abrahamsen <thomas.abrahamsen@kluge.no>
Sendt: 1. april 2009 09:51
Til: Steinar Kolnes
Kopi: Arne Helvig
Emne: SV: Company X - JIR

Steinar,

Lekkasjer kan man bli ansvarlig for etter avtalen, selv om selskapet formelt er parten.

For å saksøke Company X må dere først finne ut av hvem dette er, så den problemstillingen har jeg ikke sett nærmere på. Om dere ønsker bistand vedrørende dette må jeg nesten be om at vi får et ordinært oppdrag. Det å gi råd uten at det er etablert et ordinært oppdrag er problematisk blant annet i forhold til vår ansvarsforsikring.

Lykke til!

Mvh
Thomas

Fra: Steinar Kolnes [<mailto:steinar@biosynt.com>]
Sendt: 31. mars 2009 18:41
Til: Thomas Abrahamsen
Kopi: geb@perennialbioenergy.com; 'Magnus Jonsbråten'; 'Arne Helvig'; jp@hernes.biz
Emne: RE: Company X - JIR

Thomas,

Sett at noen finner denne i "bossbøtta" så er vel ingen ansvarlig for lekkasjen?

Ellers, fikk jeg vite at politiet kommer til å henlegge saken. §247 er vist ikke i bruk lenger.
Kan vi i et sivil søksmål kreve at Company X offentliggjøres?

Ellers er det tydelig at Company X har et problem med at det har kommet med usanne beskyldninger.

Steinar

Fra: Thomas Abrahamsen [<mailto:thomas.abrahamsen@kluge.no>]
Sendt: 31. mars 2009 18:09
Til: John Peter Hernes
Kopi: Odd-Even Bustnes; Arne Helvig; Steinar Kolnes; Steinar Kolnes; Magnus Jonsbråten
Emne: Company X - JIR

John Peter/Magnus,

Jeg følger med dette opp spørsmål fra Arne før konkursen om det var forhold til hinder for at JIR kunne slippes til utvalgte investorer. Jeg har rettet denne forespørselen videre til Company X i London. Svaret var klart nei. Enhver tilgang til JIR (eller rettene sagt informasjon gitt av Company X som inngår i JIR) for noen andre enn Biofuel AS (nå representert ved boet) eller Perennial Bioenergy AS vil etter Company X sin oppfatning være brudd på NDA'en og danne grunnlag for et erstatningsansvar.

Vi må forholde oss til NDA'en, og der står det uttrykkelig at informasjon mottatt fra Company X ikke skal slippes til andre uten etter samtykke. Når slikt samtykke ikke blir gitt, vil jeg sterkt fraråde å gi utenforstående tilgang til fortrolig informasjon (det være seg investorer, journalister med videre). Mailen fra Company X anviste til og med at partene skulle ha et solidaransvar for hverandres oppfyllelse av konfidensialitetsforpliktelsen. Jeg kan ikke se at det er grunnlag for dette, men det viser litt av holdningen hos Company X.

Mitt klare råd er å la JIR forbli konfidensiell, slik som avtalt i NDA'en.

Med vennlig hilsen/Kind regards

Thomas Abrahamsen

Advokat/Attorney

KLUGE Advokatfirma DA

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Legal is a corporate staff function in the Statoil group. We offer excellent possibilities for professional development and secondment opportunities both nationally and internationally. In Norway, the legal function is located in Stavanger, Oslo and Bergen. Additionally, the department has employees at several international offices.

The legal function is responsible for the company's legal services. Legal's services include: legal advice to business areas and corporate staffs, part of the teams preparing strategies for the implementation of projects and negotiations, drafting agreements, managing external counsel advice and training within compliance/anti-corruption work, and responsibility for the company's corporate secretariat.

We have one vacant position as legal counsel (advokat) within the corporate team based in Stavanger.

Contact person(s):
Catherine Marchand Støle, tlf. ☎ (+47) 95733888

For more information and online application form: [Click here]

Statoil er et internasjonalt energiselskap med virksomhet i 34 land. Basert på mer enn 35 års erfaring fra olje- og gassproduksjon på norsk sokkel, anvender vi teknologi og nyskapende forretningsløsninger for å møte verdens energibehov på en ansvarlig måte. Vi har hovedkontor i Norge, 20.000 ansatte over hele verden og er børsnotert i New York og Oslo.

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STAVANGER TINGRETT

Dok 35

Advokat Hege Birkeland Ersdal
Advokatfirmaet Steenstrup Stordrange DA
Postboks 1829 Vika

0123 OSLO

Deres referanse

Vår referanse

11-108237PRI-STAV

Dato

23.12.2011

Steinar Kolnes m.fl. - Statoil ASA v/ styrets formann

Det vises til tidligere prosesskriv i saken hvor det er fremmet 1.) begjæring om fremleggelse av dokumentasjon og 2.) begjæring om avskjæring av vitnebevis. Retten vil i det følgende ta stilling til begge begjæringene.

1.) Begjæring om fremleggelse

Saksøkerne Steinar Kolnes m.fl. har fremmet krav om fremleggelse av rapporten Integrity Due Diligence report (heretter IDD-rapporten) samt de versjoner av Statoils Due Diligence rapport som måtte foreligge. Begge rapportene er utarbeidet i forbindelse med Statoil New Energy AS sin potensielle investering i selskapet Biofuel AS.

Saksøkerne viser til straffeprosessloven § 210 og anfører at dokumentene vil ha betydning som bevis i saken. Det er blant annet vist til at IDD-rapporten er sentral for tolkningen av QUOTE A. Rapporten vil også kunne belyse beskyldningens sannhet samt hvorvidt informasjonsinnhenting til saksøkte har vært forsvarlig eller ikke. Hensynet til underleverandøren kan ivaretas ved å avholde rettsmøtet for lukkede dører. Det er også vist til rettens plikt til å sørge for fullstendig opplysning av saken.

Saksøkte Statoil ASA har fremmet innsigelser mot fremleggelse av IDD-rapporten samt eventuelle versjoner av Due Dilligence rapporten. Selskapet viser til at den nevnte dokumentasjonen ikke kan ha bevismessig betydning i saken. Det anføres videre at rapporten ikke besittes av de av saksøkerne nevnte personer Michael Price og Helge Lund. Det anføres også at en beslutning om fremleggelse ville være i strid med vernet mot selvinkriminering som følger av straffeprosessloven og EMK artikkel 6 nr. 1.

Rettens vurdering av fremleggelsesbegjæringen

I medhold av straffeprosessloven § 210 kan det begjæres utlevering av ”ting som antas å ha betydning som bevis”. Det er et vilkår for pålegg om utlevering at besitteren har vitneplikt. Det er ikke tvilsomt at bestemmelsen får anvendelse i private straffesaker.

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Hvorvidt fremleggelsen av den etterspurte dokumentasjonen antas å ha betydning som bevis i saken må vurderes på bakgrunn av de krav som er fremsatt. Både kravet om mortifikasjon etter straffeloven § 253 og kravet om oppreisningserstatning etter skadesserstatningsloven § 3-6 første ledd forutsetter at fremleggelsen av QUOTE A innebærer en ærekrenkelse. Hvorvidt sitatet er av en krenkende karakter eller ikke er et spørsmål som beror på en vurdering av sitatet slik det ble fremsatt, den situasjonen hvori sitatet ble fremmet og/eller kommentert og sitatets virkning på fornærmede. Vurderingen er dermed, så vidt retten kan se, fullstendig uavhengig av det dokumentet som sitatet er hentet fra.

Den aktsomhetsvurderingen som eventuelt må foretas i vurderingen av oppreisningskravet vil også knytte seg til sitatets krenkende karakter som sådan og vil således heller ikke avhenge av den kilden det er hentet fra. Spørsmålet vil være om Statoil under de gitte omstendigheter burde forstått at sitatet kunne medføre en krenkelse av saksøkernes æresfølelse eller deres gode navn og rykte og om selskapet på den bakgrunn burde handlet annerledes.

Retten kan på denne bakgrunn ikke se at IDD-rapporten er egnet til å belyse de krav som saksøkerne har fremmet. Retten kan etter de samme betraktninger heller ikke se at en Due Dilligence rapport vil kunne få betydning som bevis i saken. På denne bakgrunn har retten kommet til at begjæringen om utlevering etter straffeprosessloven § 210 ikke skal etterkommes.

Det legges til at Statoil har bevisbyrden for beskyldningens sannhet, jf. straffelovens § 249 første ledd. I denne forbindelsen vil IDD-rapporten kunne være et relevant bevis. Hvorvidt Statoil ønsker å føre slike bevis er imidlertid opp til selskapet selv å vurdere.

Saksøkerne har også anført at tvistelovens regler for edisjonsplikt får anvendelse i forhold til erstatningsspørsmålet. Retten bemerker at tvistelovens regler om bevis ikke får anvendelse for sivile krav som reises i privat eller offentlig straffesak etter straffeprosessloven § 427. Det vises til straffeprosessloven § 428 fjerde ledd og straffeprosesslovens kommentarutgave (Bjerke og Keiserud, 4. utg.) på side 1396.

Etter dette har retten ikke grunn til å behandle spørsmålet om Statoil eventuelt er vernet mot selvinkriminering etter straffeprosesslovens regler eller EMK artikkel 6 nr. 1.

2.) Spørsmålet om bevisavskjæring

Statoil har fremmet begjæring om bevisavskjæring etter straffeprosessloven § 295 i forhold til saksøkernes vitneliste. Det er vist til at saksøkerne ønsker å føre 19 vitner og at enkelte av vitnene ikke har relevans i forhold til de spørsmål retten skal avgjøre. Utover Helge Lund er det ikke kommentert hvilke av vitnene saksøkte anser for å være overflødige.

Saksøkerne Steinar Kolnes m.fl. har anført at de angitte vitnene har tilknytning til sakens faktiske forhold og at de er nødvendige for sakens opplysning. Saksøkerne har ikke gitt noen nærmere begrunnelse for hvert enkelt vitne, men det er i prosesskriv av 18. november 2011 varslet at en nærmere gjennomgang og konkretisering vil bli foretatt. Retten kan ikke se at det på tidspunktet for denne beslutningen er gjennomført.

Straffeprosessloven § 295 hjemler avskjæring av bevis under hovedforhandlingen. Det er straffeprosesslovens § 273 som hjemler avskjæring av bevis forut for hovedforhandlingen i ærekrenkelsessaker, men denne gjelder kun sannhetsbevis. Basert på saksøktes prosesskriv av 7. september 2011 er retten av den oppfatning av at saksøkte i denne saken ikke ønsker å føre bevis for beskyldningens sannhet.

I private straffesaker er det retten som innkaller vitner, jf. straffeprosessloven § 417. Beslutningen om hvilke vitner som skal innkalles tas av den rett som behandler saken, jf. bestemmelsens siste ledd. Beslutningen tas med hensyn til at retten våker over at saken blir fullstendig opplyst, jf. straffeprosessloven § 294, samtidig som den har et ansvar for å nekte bevisførsel under hovedforhandlingen som er uten betydning for saken, jf. straffeprosessloven § 295.

Basert på de temaene som skal behandles i den kommende hovedforhandlingen, jf. over, kan retten ikke se at alle de vitnene som er påberopt av saksøkerne vil ha slik betydning for saken at det er hensiktsmessig eller nødvendig å føre dem. **Retten gir etter dette saksøkerne frist til 10. januar 2012 med å presisere hvilke vitner som er hensiktsmessige og nødvendige. Innen samme frist må saksøkerne redegjøre kort og konkret for hva hvert enkelt vitne skal forklare seg om slik at retten får tilstrekkelig grunnlag for å fatte sin beslutning.**

Dersom slik konkretisering ikke blir foretatt innen fristen vil retten fatte sin beslutning basert på det foreliggende materialet. Det vises til straffeprosessloven § 409 første ledd siste setning om rettens plikt til å fremme saken uten unødig opphold.

For øvrig vises det til saksøkernes prosesskriv av 22. desember 2011 hvor det bes om utsettelse av hovedforhandlingen. Basert på overnevnte, og forutsatt at denne beslutningen ikke påankes, kan retten ikke se at det på dette tidspunktet er behov for noen utsettelse. Den planlagte datoen for hovedforhandling blir dermed stående.

Likelydende brev er sendt til alle parter.

Stavanger tingrett

Lars Ole Sikkeland
dommerfullmektig



NATIONAL PETROLEUM AUTHORITY

ENA House, No 20 Boundary Road, East Legon, Accra

C.P.M.B.

Cantonments, Accra

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Email: info@npa.gov.gh

Website: www.npa.gov.gh

NPA/IML/APL/01/12

5th January, 2017

**The Managing Director
Solar Harvest
Holding AS
Norway**

Dear Steinar Kolnes,

RE: CALLING YOU (NPA) AS WITNESS

We refer to all the emails and other correspondence that have been exchanged between you and us (NPA) on the above subject matter. We have taken note of the issues raised therein which have been spelt out below:

1. Did National Petroleum Authority (NPA) have any regulative mandate over biofuel and / or vegetable oil production back in 2007-2009 ?”

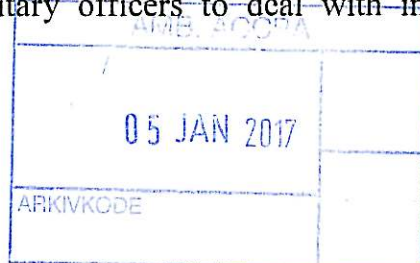
“2. Is there anything NPA will like to add in relation to the quotations A, C and D?” Ref. Diligence Quote A-E.

We hereby respond as follows:

1. Under the first issue NPA wishes to state that we are regulators of the Petroleum downstream Industry and we have no regulatory mandate to license biofuel and / or vegetable oil production.
2. We wish to state categorically that the information you have received from the court and other sources regarding the Licensing of Bio Fuel operators are all false.

We have a well laid down legislated procedure for license application for any investor who wants to invest in the petroleum downstream sector in Ghana. This procedure is transparent and always available to the general public from our website. Each category of our operating licenses also have a specific framework within which the licensee must operate and this is also public information.

3. It is also a false allegation that The National Petroleum Authority (NPA) used Ghana’s military officers to deal with investors (whether foreign or local). This



contrary to the vision of NPA to be a Catalyst for Economic Transformation and Growth.

4. Regarding the second issue, the people alleged to have made those statements are professionals of high repute and there is no way they could ever make such unfounded statements. We pray the courts to disregard the alleged quotations with the contempt they deserve.

From the foregoing, we would like to conclude that all the statements brought before the court purported to have been made by officials of NPA are false and should be disregarded.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Naana Bedu-Addo', is written over the typed name.

Naana Bedu-Addo
Legal Manager