COMMONWEALTH of VIRGINIA

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Secretary of Natural Resources

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STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
JAI JALRAM CORPORATION
FOR THE
D&G MART
Facility ID No. 2-002317

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Jai Jalram Corporation, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.

3. "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. "Facility" means the physical location where the UST and/or UST system is installed and/or operated, known as the D&G Mart located at 1219 Jamison Avenue, SE in Roanoke, Virginia. The Facility's UST and/or UST system are owned and operated by Jai Jalram Corporation, and the Facility is further identified by UST Facility ID# 2-002317.

7. "Financial Responsibility" means the ability to demonstrate that one has the financial resources available to pay for the costs of containment and cleanup and third party lawsuits in the event of a release from an UST or UST system.

8. "Form 7530-2" means the Notification for Underground Storage Tanks form used by DEQ to register and track USTs for proper operation, closure and ownership, in accordance with 9 VAC 25-580-70.

9. "Jai" means Jai Jalram Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Jai is a "person" who owns and operates the Facility.

10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

11. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.

12. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.

13. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.

14. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.

15. "Pipe" or "piping" means a hollow cylinder or the tubular conduit that is constructed of non-earthen materials that routinely contains and conveys regulated substances from the underground tank(s) to the dispenser(s) or other end-use equipment. Such piping includes

any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the underground tank(s) to the dispenser(s). Pipe or piping does not include vent, vapor recovery, or fill lines.

16. "Regulated Substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment, as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.

17. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.*

18. "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into ground water, surface water or subsurface soils.

19. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

20. "State Water Control Law" means Chapter 3.1(§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.

21. "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.

22. "Va. Code" means the Code of Virginia (1950), as amended.

23. "VAC" means the Virginia Administrative Code.

24. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Jai is the owner and operator of the Facility. Jai stores regulated substances in the form of gasoline, diesel, and kerosene in USTs at the Facility.

2. On September 15, 2009, Department staff inspected the Facility and conducted a file review of Facility records to evaluate Jai's compliance with the requirements of the State Water Control Law and the Regulations. At that time, there were five (5) USTs at the Facility: one 12,000 gallon 'Regular' gasoline UST, one 12,000 gallon 'Plus' gasoline

UST, one 10,000 gallon 'Premium' gasoline UST, one 5,000 gallon kerosene UST and one 5,000 gallon diesel UST. DEQ staff observed the following:

a. Records for the three-year corrosion protection equipment test for the cathodically protected UST systems were not available.

b. Records of the inspections at 60-day intervals of the impressed current cathodic protection systems were not available.

c. Records for release detection on the UST piping systems were not available.

d. Records for release detection on the USTs were not available.

e. Financial responsibility had not been demonstrated based on review of the current documentation.

3. 9 VAC 25-580-120(2)(c) states that owners and operators must maintain information of recent compliance with release detection requirements.

4. 9 VAC 25-580-180(2) states that the results of any sampling, testing, or monitoring must be maintained for at least one year, or for another reasonable period of time determined by the board, except that the results of tank tightness testing conducted in accordance with subsection 3 of 9 VAC 25-580-160 must be retained until the next test is conducted.

5. 9 VAC 25-590-40(A) requires that owners or operators of petroleum underground storage tanks shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks.

6. Department staff issued a Request for Corrective Action ("RCA") at the time of the inspection for the violations listed in paragraphs C(2) through C(5), above. The RCA requested that Jai correct the areas of non-compliance no later than October 15, 2009.

7. On August 22, 2011, Department staff conducted a follow up site visit of the Facility and noted the same areas of non-compliance first identified during the September 2009 inspection. A representative of Jai was verbally notified of these areas of non-compliance.

8. On September 8, 2011, the Department received a report from City of Roanoke environmental staff that a release of regulated substance was occurring at the Facility. This notification was documented in an Environmental Pollution Incident Report (IR 2012-W-0695).

9. As part of the emergency response effort on September 8, 2011, Environmental Solutions, acting on behalf of Jai conducted a Precision Line Tightness Test on the five

regulated UST piping runs at the Facility. The Super Gasoline, Diesel, and Kerosene piping runs passed. The Regular Gasoline and Plus Gasoline piping runs failed the precision line tightness test. Furthermore, the Plus Gasoline UST failed a tank tightness test, also conducted on September 8, 2011, and was removed from the ground as part of the emergency response and under the authority of the local fire marshal.

10. On September 9, 2011, Department staff was at the Facility to conduct a compliance inspection as a follow-up to the emergency response. Department staff observed Automatic Tank Gauge ("ATG") reports that indicated the ATG had been in a "warning/alarm" status. Jai did not investigate the nature of the warning/alarm and notify the Department of a suspected release.

11. 9 VAC 25-580-190 requires that owners and operators must report all suspected releases of regulated substances within 24 hours.

12. On September 27, 2011, the Department issued Notice of Violation No. NOV-11-09-BRRO-R-003 to the Jai for violations listed in paragraphs C(2) through C(7) and C(12) through C(13), above.

13. Based on the results of the September 15, 2009, August 22, 2011, and September 9, 2011 inspections, the Board concludes that Jai has violated 9 VAC 25-580-90.2, 9 VAC 25-580-90.3, 9 VAC 25-580-140(c)(2)(a), 9 VAC 25-580-180(2), 9 VAC 25-590-40(A), and 9 VAC 25-580-190, as described in paragraphs C(2) through C(7) and C(12) through C(13), above.

14. Jai has submitted documentation that verifies the that the violations described in paragraphs C(2) through C(7) and C(12) through C(13), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in § 62.1-44.15, the Board orders Jai, and Jai agrees to pay a civil charge of **$10,159** in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
November 1, 2012	$2,539.75 or balance
February 1, 2013	$2,539.75 or balance
May 1, 2013	$2,539.75 or balance
August 1, 2013	$2,539.75

If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Jai. Within 15 days of receipt of such letter, Jai shall pay the remaining balance of the civil charge. Any acceptance by the

Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Jai shall include its Federal Employer Identification Number (FEIN) 27-0364754with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Jai for good cause shown by Jai, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Jai admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Jai consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Jai declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Jai to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Jai shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Jai shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Jai shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Jai. Nevertheless, Jai agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. The Director or his designee terminates the Order after Jai has completed all of the requirements of the Order;

    b. Jai petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Jai.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Jai from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Jai and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Jai certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Jai to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Jai.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Jai voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 28th day of September, 2012.

Robert J. Weld, Regional Director
Department of Environmental Quality

(Remainder of Page Intentionally Blank)

Jai Jalram Corporation voluntarily agrees to the issuance of this Order.

Date: 07-20-12 By: A Patel, Director
Mrs. Anjana D. Patel
Jai Jalram Corporation

Commonwealth of Virginia
City/County of Roanoke

The foregoing document was signed and acknowledged before me this 30 day of July, 2012, by Mrs. Anjana D. Patel who is a Director of Jai Jalram Corporation, on behalf of the corporation.

Bobbie S. Crawford
Notary Public

7515048
Registration No.

My commission expires: 10-31-2016

Notary seal:

BOBBIE S. CRAWFORD
NOTARY PUBLIC
REG. #7515048
MY COMMISSION EXPIRES 10/31/2016
COMMONWEALTH OF VIRGINIA