

Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
SAN-J INTERNATIONAL, INC.
FOR
SAN-J INTERNATIONAL
VPDES Permit No. VAR05
Registration Number VAR050623**

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 San-J International, Inc., ("San-J") regarding the San-J International facility located at 2880 Sprouse Drive, Henrico, Virginia 23231, for the purpose of resolving certain violations of the State Water Control Law, associated regulations, and the Virginia Pollution Discharge Elimination System Permit No. VAR 05 ("Permit").

SECTION B: Definitions

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

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.

2. "9B Ori" or "Product" for the purpose of this Order, means a food additive used to make soy sauce that contains high amounts of salt and alcohol with a proof range of 189.95 – 190.04.
3. "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.
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. "Discharge" means the discharge of a pollutant.
7. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. "DO" means dissolved oxygen.
9. "Facility" or "Site" means the San-J International, Inc. facility located at 2880 Sprouse Drive, Henrico, Virginia 23231, from which discharges of stormwater associated with industrial activity occur.
10. "Henrico DPU" means Henrico County's Department of Public Utilities.
11. "Henrico EESD" means Henrico County's Engineering and Environmental Services Division.
12. "Henrico's MS4" or "MS4" means Henrico County's municipal separate storm sewer system.
13. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
14. "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.

15. "Permit" means VPDES General Permit No. VAR05 which was issued under the State Water Control Law and the Regulation on July 1, 2019 and which expires on June 30, 2024. San-J applied for registration under the Permit and was issued registration number VAR050623.
16. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
17. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3
18. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
19. "Regulation" means the Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater Associated with Industrial Activity, 9 VAC 25-151-10, *et seq.*; the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation 9 VAC 25-30-10, *et seq.*; and Virginia's Water Quality Standards 9 VAC 25-260-5, *et seq.*
20. "San-J" means San-J International, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. San-J is a "person" within the meaning of Va. Code § 62.1-44.3.
21. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
22. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
23. "SWP3" means Stormwater Pollution Prevention Plan.

24. "Va. Code" or "the Code" means the Code of Virginia (1950), as amended.
25. "VAC" means the Virginia Administrative Code.
26. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. San-J owns and operates the Facility located at 2880 Sprouse Drive, Henrico, Virginia 23231, from which discharges of stormwater associated with industrial activity occur. San-J is an international company and makes various cooking sauces, including soy sauce, at the Facility. San-J uses 9B Ori in the making of its soy sauce.
2. The Facility has multiple internal and external tank farms, and each external tank farm is enclosed in a cement wall for secondary containment. Inside the secondary containment area for each external tank farm is a drain equipped with a valve control mechanism that can keep the drain closed or open to either the sanitary or stormwater system.
3. At various times, any one or more of San-J's external tanks may contain Product.
4. San-J has been subject to the Permit under Registration No. VAR050623 since 1999 for the Facility.
5. The Permit allows San-J to discharge stormwater associated with industrial activity and certain authorized nonstormwater discharges from the Facility to an unnamed tributary of Cornelius Creek, via Henrico's MS4, in strict compliance with the terms and conditions of the Permit.
6. Cornelius Creek is located in the James River Basin. During the 2018 305(b)/303(d) Integrated Water Quality Assessment, Cornelius Creek was considered a Category 4A waterbody. The Recreation Use was impaired due to E. coli exceedances. The Aquatic Life Use was considered fully supporting. The Fish Consumption Use is considered fully supporting with observed effects due to a Virginia Department of Health ("VDH") advisory for kepone. The Wildlife Use was not assessed. The unnamed tributary to Cornelius Creek was considered a Category 2B waterbody. The Fish Consumption Use is considered fully supporting with observed effects due to a VDH advisory for kepone. The Aquatic Life, Fish Consumption, and Wildlife Uses were not assessed. The Facility is within the study area for the James River and Tributaries – City of Richmond Bacterial Total Maximum Daily Load ("TMDL"). The TMDL was approved by the U.S. Environmental Protection Agency ("EPA") on November 4, 2010 and the Board on June 29, 2012. The Facility is located in the Chesapeake Bay watershed. The Chesapeake Bay TMDL was approved by the EPA on December 29, 2010, allocating loads for total nitrogen, total phosphorus, and total suspended solids to protect the DO and submerged aquatic vegetation criteria in the Chesapeake Bay and its tidal tributaries. Cornelius

Creek is considered a Tier 2 water. The tributary is an intermittent stream and is a Tier 1 water.

7. On October 29, 2019, approximately 12,800 liters of Product was released into the Facility's drain and stormwater system, discharged from an outfall (Outfall 008), entered Henrico's MS4, and then discharged into an unnamed tributary of Cornelius Creek.
8. The release occurred when Product was being pumped from Tank 7B into a container for moromi located inside the building. At that time, a manhole door was left partially open on Tank 7A. Both Tanks 7A and 7B are located within the same external tank farm. Pipes for Tank 7A and 7B are joined to a pump centered between the tanks. When the pump stopped pumping the Product from Tank 7B, the head pressure on the pump caused Product to back-feed through the pipe into Tank 7A. Because the door was left open, Product flowed out of the open door and, over time, flowed into the drain located inside the secondary containment area for the tank farm.
9. The drain was left open to the stormwater system, allowing Product to flow into the underground stormwater storage tanks for the Facility. The tanks connect to Henrico's MS4. Henrico's MS4 then discharged the Product into an unnamed tributary of Cornelius Creek.
10. On the day of the release, San-J sent a discharge notification letter to Henrico DPU and DEQ, notifying them of the release.
11. On November 27, 2019 DEQ, Henrico EESD, and Henrico DPU staff met with San-J management staff to discuss clean-up measures and residual Product in the stormwater system. Initial clean-up efforts began on December 2, 2019 with a pump out of the affected stormwater systems.
12. On December 6, 2019, DEQ and Henrico EESD staff met again with San-J management staff and representatives from HEPACO, LLC, an environmental and emergency services company ("HEPACO"), to follow up with remediation efforts. A plan of action was discussed to treat and pump the contaminated stormwater through Henrico's MS4 pending approval from Henrico DPU. Approval was subsequently received from Henrico DPU.
13. During the December 6, 2019 site visit, DEQ staff noted a smell emanating from and a sheen/particles located in Cornelius Creek. DEQ staff also measured DO levels in the unnamed tributary of Cornelius Creek downstream of the release. Those measurements were 1.07 mg/L and 0.77 mg/L. Virginia Water Quality Standards 9 VAC 25-260-50 lists the acceptable range for DO in non-tidal waters to be 4.0 – 5.0 mg/L.
14. On December 9, 2019, DEQ staff and Henrico EESD staff met with a HEPACO representative to discuss clean-up progress. San-J worked with Henrico County and HEPACO to remove the Product and contaminated stormwater, wash the affected tanks and system, and dispose of the contaminated stormwater and wash water through

Henrico's MS4. As of the date of this Order, the clean-up and discharge process is complete.

15. PRO issued a Notice of Violation on January 30, 2020, NOV No. W2020-01-P-0002, for the unauthorized release of approximately 12,800 liters of 9B Ori into the MS4 system and tributary of Cornelius Creek, and for the exceedance of water quality standards with DO measurements of 1.07 mg/L and 0.77 mg/L in the unnamed tributary of Cornelius Creek.

Va. Code § 62.1-44.5(A) states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances. . .[or] [o]therwise alter the physical, chemical or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life . . .”

9 VAC 25-31-50 (A) states “[e]xcept in compliance with a VPDES permit, or another permit, issued by the board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.”

Part II.F of the Permit states, “Unauthorized discharges. Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.”

9 VAC 25-260-50 states that the water quality standard for DO in non-tidal waters is “4.0 – 5.0 mg/L.”

16. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
17. The Department has issued coverage under no permits or certificates to San-J other than under VPDES Permit No. VAR050623.
18. The unnamed tributary of Cornelius Creek is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
19. San-J timely notified DEQ of the release and took action to remedy the release. San-J also implemented measures to reduce the likelihood that such a release would occur in the future. Those efforts include ensuring that the drains of the secondary containment areas are closed, subject to a visual check by management; instructing staff on the use

and purpose of the drains; updating its SWP3; adding multiple staff members to its stormwater pollution prevention team; and improving its stormwater pollution prevention training and education for employees.

20. Based on the discharge notification, Notice of Violation on January 30, 2020, NOV No. W2020-01-P-0002 and the site visits on November 27, 2019, December 6 & 9, 2019, and February 20, 2020, the Board concludes that San-J has violated Va. Code § 62.1-44.5(A), 9 VAC 25-31-50 (A), 9 VAC 25-260-50, and the Permit.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders San-J, and San-J agrees to:

1. Pay a civil charge of **\$6,825.00** within 30 days of the effective date of the Order in settlement of the violations cited in 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

San-J shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] with 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 Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, San-J shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of San-J for good cause shown by San-J, 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 and in NOV No. W2020-01-P-0002 dated January 30, 2020. 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, San-J admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. San-J 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. San-J 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 San-J 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. San-J 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. San-J shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. San-J 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 San-J. Nevertheless, San-J 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 San-J has completed all of the requirements of the Order;
 - b. San-J 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 San-J.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve San-J 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 San-J 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 San-J certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind San-J to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of San-J.
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, San-J voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2020.

James Golden, Regional Director
Department of Environmental Quality

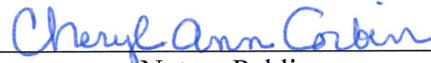
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San-J International, Inc. voluntarily agrees to the issuance of this Order.

Date: 6-11-2020 By:  Director of Administration
(Person) (Title)
San-J International, Inc.

Commonwealth of Virginia
City/County of Henrico

The foregoing document was signed and acknowledged before me this 11th day of June, 2020, by Masaki Nakagawa who is Director of Administration of San-J International, Inc., on behalf of the corporation.


Notary Public

7515000
Registration No.

My commission expires: 1-31-2024

Notary seal:

