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**U.S. EPA REGION IX
HEARING CLERK**

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of:	)	U.S. EPA Docket No.
	)	CWA-09-2026-0038
	)	
J&J Snack Foods Corp.	)	CONSENT AGREEMENT
	)	AND FINAL ORDER
	)	40 C.F.R. §§ 22.13(b) and 22.18
Respondent.	)	
_____	)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action initiated pursuant to Sections 311(b)(6)(A) and (B)(ii) of the Clean Water Act ("CWA") 33 U.S.C. §§ 1321(b)(6)(A), (b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. § 22.18(b)(2), as codified at 40 Code of Federal Regulations (C.F.R.) Part 22.
2. The Administrator has delegated enforcement authority under Section 311 of the CWA, 33 U.S.C. § 1321, to the Regional Administrator of EPA Region IX, who in turn has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, hereinafter, "Complainant."
3. Respondent is J&J Snack Foods Corp. ("Respondent").
4. EPA and Respondent are hereinafter collectively referred to as the "Parties."
5. This Consent Agreement and Final Order ("CA/FO"), which contains the element of a complaint required by 40 C.F.R. § 22.14(a)(1)-(3) and (8), simultaneously commences and concludes this penalty proceeding, as authorized by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
6. Complainant and Respondent agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest, consistent with the CWA's objectives and in the public interest.

B. PARTIES BOUND

7. This CA/FO shall apply to and be binding upon Respondent, Respondent's officers, directors, partners, agents, employees, contractors, successors and assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondent shall not excuse any failure of Respondent to fully perform its obligations under this CA/FO. Changes in ownership, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's obligations under this CA/FO.
8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CA/FO and to execute and legally bind such Party to this document.

C. STATUTORY AND REGULATORY FRAMEWORK

9. Sections 311(j)(1)(C) and (5) of the CWA, 33 U.S.C. §§ 1321(j)(1)(C) & (5), provide that "the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil...from onshore facilities...and to contain such discharges...."
10. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11,677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54,757 (Oct. 22, 1991), the President delegated to EPA the authorities under Section 311(j)(1)(C) and (5) of the CWA, 33 U.S.C. §§ 1321(j)(1)(C) and (5), to issue regulations.
11. EPA subsequently promulgated regulations, codified at 40 C.F.R. Part 112 (the "Oil Pollution Prevention Regulations"), pursuant to its delegated statutory authorities and pursuant to its authorities under the CWA, 33 U.S.C. § 1251 *et seq.*
12. The Oil Pollution Prevention Regulations establish certain procedures, methods, and requirements, applicable to an owner or operator of a non-transportation-related onshore facility, which, due to its location, reasonably could be expected to discharge oil into or upon navigable waters and their adjoining shorelines in such quantities as EPA has determined in 40 C.F.R. Part 110 may be harmful to the public health or welfare or the environment of the United States. *See* 40 C.F.R. § 112.1(b).
13. "Oil" is defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), to include, in pertinent part, "oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge" Under the CWA's implementing regulations, at 40 C.F.R. § 112.2, oil

is defined to include "oil of any kind or in any form, including, but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and, other oils and greases, including petroleum, fuel oil, sludge"

14. "Onshore facility" is defined in Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), as "any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land," as well as in the implementing regulations, 40 C.F.R. § 112.2.
15. "Owner or operator" is defined in Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), in pertinent part, as "in the case of an onshore facility, . . . any person owning or operating such onshore facility," as well as in the implementing regulations, 40 C.F.R. § 112.2.
16. "Person" under Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7), "includes an individual, firm, corporation, association, and a partnership," as well as in the implementing regulations, 40 C.F.R. § 112.2.
17. 40 C.F.R. § 112.2 provides that "non-transportation-related" facilities are defined in the "Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency, dated November 24, 1971."
18. "Navigable waters" are defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2.
19. In promulgating 40 C.F.R. § 110.3, which implements Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), EPA determined that an oil discharge is of harmful quality if it either "(a) Violate[s] applicable water quality standards; or (b) Cause[s] a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause[s] a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines."
20. Under 40 C.F.R. § 112.1(b), owners or operators of onshore facilities that, due to their location, could reasonably be expected to discharge harmful quantities of oil (as defined in 40 C.F.R. § 110.3) into the waters of the United States must prepare and fully implement a Spill Prevention Control and Countermeasure Plan ("SPCC Plan") for each facility in accordance with 40 C.F.R. § 112.3.

D. GENERAL ALLEGATIONS

21. Respondent is a food manufacturing company, with its parent company headquartered in Mt. Laurel New Jersey. Respondent is a “person” within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 C.F.R. § 112.2.
22. EPA alleges that Respondent is or was the “owner or operator” of the J&J Snack Foods Corp. of California facility (the Facility), an onshore, non-transportation-related facility within the meaning of Section 311(a)(6) of the Clean Water Act (CWA), 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2. The Facility is located at 5353 Downey Avenue, in Vernon California, and engages in food manufacturing operations that produce and package dry and frozen snack food products and use various dry goods and liquid materials, including edible oils.
23. The Facility’s oil storage includes bulk vegetable oil silos, tempering tanks, fryers, aboveground storage tanks, 55-gallon drums of lubricating, hydraulic, and used oil, and numerous totes and other containers, with a total aboveground oil storage capacity of approximately 46,075 gallons.
24. The Facility discharges via the City of Vernon storm sewer to the Los Angeles River. The Los Angeles River is a “navigable water” of the United States as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 112.2.
25. EPA alleges that the Facility is a non-transportation-related facility that, due to its location, could reasonably have been expected, at the time of inspection on December 13, 2024, and April 23, 2025, to discharge oil from an above-ground container to a navigable water of the United States or its adjoining shorelines in a harmful quantity (an “SPCC-regulated facility”).
26. Pursuant to the CWA, Executive Order 12777, and 40 C.F.R. § 112.1, EPA alleges that Respondent, as the owner or operator of an SPCC-regulated facility, is subject to the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112.
27. On December 13, 2024, and April 23, 2025, EPA Region IX inspected the Facility to evaluate compliance with the requirements of Section 311 of the CWA, 33 U.S.C. § 1321, and with the SPCC requirements of the Oil Pollution Prevention Regulations codified at 40 C.F.R. Part 112.

E. ALLEGED VIOLATIONS

28. Paragraphs 1 through 27, above, are incorporated herein by this reference.

29. Respondent failed to comply with applicable SPCC requirements of 40 C.F.R. Part 112, specifically by:

- a. Failing to timely prepare and implement an SPCC Plan certified by a Professional Engineer, in violation of 40 C.F.R. §§ 112.3(a) and 112.3(d).
- b. Failing to maintain the SPCC Plan at the facility, in violation of 40 C.F.R. § 112.3(e).
- c. Failing to review and evaluate the SPCC Plan at least once every five years and amend it as necessary, in violation of 40 C.F.R. § 112.5(b).
- d. Failing to conduct and document inspections and tests in accordance with written procedures and to keep such records, in violation of 40 C.F.R. § 112.7(e).
- e. Failing to train oil-handling personnel in operations and maintenance to prevent discharges, discharge procedures, and applicable pollution control laws, in violation of 40 C.F.R. § 112.7(f).
- f. Failing to conduct appropriate integrity testing of bulk storage containers and to perform routine visual inspections on a regular schedule, in violation of 40 C.F.R. § 112.8(c)(6).

30. On information and belief, Respondent violated certain of these requirements for approximately five years (60 months) preceding EPA's inspection.

F. CIVIL PENALTY

31. Respondent agrees to pay a civil penalty of FIFTY-FIVE THOUSAND DOLLARS (\$55,000) ("Assessed Penalty"), within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective date, as defined in Section J, below, is the date the CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

32. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

Reference should be made to:

"Oil Spill Liability Trust Fund – 311" or "OSLTF – 311."

33. When making a payment, Respondent shall:

Identify every payment with Respondent's name and the docket number of this Agreement.

Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons via electronic mail:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
R9HearingClerk@epa.gov

Ash Nieman
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
Nieman.ash@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

34. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1321(b)(6)(11), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.
- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1321(b)(6)(H).
 - b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of collection proceedings.
 - c. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

35. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:
- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 33 U.S.C. § 1321(b)(6)(H). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.
36. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
37. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

G. ADMISSIONS AND WAIVERS OF RIGHTS

38. In accordance with 40 C.F.R. § 22.18(b)(2), for the purpose of this proceeding, Respondent:
- a. admits the jurisdictional allegations of this CA/FO;
 - b. neither admits nor denies specific factual allegations contained in the CA/FO;

- c. consents to the assessment of any stated civil penalty and to any conditions specified in this CA/FO; and
 - d. waives any right to contest the allegations and its right to appeal the proposed final order accompanying this consent agreement.
39. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

H. RESERVATION OF RIGHTS

40. In accordance with 40 C.F.R. § 22.18(c), full compliance with this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations specifically alleged herein and does not in any case affect the right of the EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
41. This CA/FO is not a permit or modification of any existing permit issued pursuant to any federal, state, or local laws or regulations. This CA/FO shall in no way relieve or affect Respondent's obligations under any applicable federal, state or local laws, regulations, or permits.

I. MISCELLANEOUS

42. This CA/FO can be signed in counterparts.
43. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
44. Each party shall bear its own costs and attorneys' fees.
45. By signing this CA/FO, Respondent acknowledges that this CA/FO will be available to the public and agrees that this CA/FO does not contain any confidential business information or personally identifiable information.
46. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order and settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's

potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to Jessica Chalifoux in EPA’s Cincinnati Finance Department at chalifoux.jessica@epa.gov, on or before the date the Respondent’s penalty payment is due, pursuant to Paragraph 31, or within 7 days should the order become effective between December 15 and December 31 of the calendar year. EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

J. EFFECTIVE DATE

47. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.13(b), the effective date of this CA/FO (“Effective Date”) shall be the date the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

In the Matter of JJ Snack Foods Corp. of California
Consent Agreement and Final Order

For Complainant U.S. Environmental Protection Agency Region IX:

AMY MILLER-
BOWEN



Digitally signed by
AMY MILLER-BOWEN
Date: 2026.09.24
16:12:24 -07'00'

Amy C. Miller-Bowen, Director
Enforcement and Compliance Assurance Division

*In the Matter of JJ Snack Foods Corp. of California
Consent Agreement and Final Order*

For Respondent:



[Title of Authorized Representative]

CFO

Date: 9-10-26