

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS**

This form was originated by Wanda I. Santiago for Michael Wagner 10/29/10  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number EPCRA -01-2010-0058

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

BJ's Wholesale Club  
869 Quaker Highway  
Uxbridge, MA

Total Dollar Amount of Receivable \$ 27,000 Due Date: \_\_\_\_\_

SEP due? Yes \_\_\_\_\_ No \_\_\_\_\_ Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>ST</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
5 Post Office Square - Suite 100  
Boston, MA 02109-3912

October 28, 2010

**BY HAND**

Wanda Rivera  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region I  
5 Post Office Square - Suite 100 (ORA18-1)  
Boston, MA 02109-3912

RECEIVED  
OCT 28 2010  
EPA ORC WS  
Office of Regional Hearing Clerk

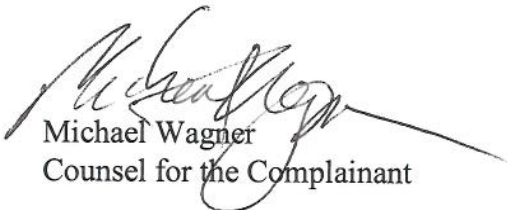
Re: BJ's Wholesale Club; Docket No. EPCRA-01-2010-0058

Dear Ms. Rivera:

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matter referenced above pursuant to 40 C.F.R. § 22.18(b).

Thank you for your attention to this matter.

Sincerely,

  
Michael Wagner  
Counsel for the Complainant

Enclosure

cc: William Peters, BJ's Wholesale Club

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
BEFORE THE ADMINISTRATOR

RECEIVED  
OCT 28 2010

EPA ORC WS  
Office of Regional Hearing Clerk

In the Matter of: )  
)  
BJ's Wholesale Club, Inc. )  
869 Quaker Highway )  
Uxbridge, MA )  
)  
Respondent. )  
)

Docket No. EPCRA-01-2010-0058

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency ("EPA"), having filed the Complaint herein against Respondent, BJ's Wholesale Club, Inc., the Parties herein; and Complainant and Respondent having agreed that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter.

NOW, THEREFORE, before the taking of any testimony, upon the pleading, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty of forty-one thousand six hundred dollars (\$41,600), pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045, and the regulations promulgated thereunder, found at 40 C.F.R. Part 370.
2. The Complaint alleges that Respondent violated regulations concerning the

submission of material safety data sheets and chemical inventory forms (Tier II) for the hazardous chemicals lead and diesel fuel and the extremely hazardous chemical sulfuric acid stored at Respondent's facility in Uxbridge, Massachusetts in quantities equal to or greater than the chemical-specific minimum thresholds for these chemicals set forth at 40 C.F.R. §370.20 (b).

3. The provisions of this Consent Agreement and Final Order shall apply to and be binding on the Parties, their officers, directors, agents, servants, employees, successors and assigns.

4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives any defenses it might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this Consent Agreement and Final Order.

5. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waives its right to appeal the Final Order.

## II. TERMS OF SETTLEMENT

6. Respondent has demonstrated to the satisfaction of EPA that it has complied with the reporting requirements that formed the basis of Counts I, II, III and IV of the Complaint.

7. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. §11045(c), and taking into account the nature of the violations, Respondent's cooperative attitude, and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of twenty-seven thousand dollars (\$27,000).

8. Respondent consents to the issuance of the Consent Agreement and Final Order



hereinafter recited and consents for purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

9. Within thirty (30) days of the effective date of the Final Order, Respondent shall submit a cashier's or certified check, to the order of the "Treasurer, United States of America," in the amount of twenty-seven thousand dollars (\$27,000), to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Respondent shall provide copies of the check to:

Regional Hearing Clerk (Mail Code ORA18-1)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

and

Michael Wagner  
Senior Enforcement Counsel (Mail Code OES04-3)  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

10. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. In the event that any partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. §901.9(b)(2). In addition, a

penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. §901.9(d).

11. All penalties, interest, and charges payable pursuant to this Consent Agreement and Final Order shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

12. Respondent shall bear its own costs and attorneys' fees in connection with the action resolved by this Consent Agreement and Final Order.

13. This Consent Agreement and Final Order constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 325 of EPCRA for the violations of EPCRA alleged in the Complaint. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

14. This Consent Agreement and Final Order in no way relieves BJ's Wholesale Club, Inc. or its employees of any criminal liability. Nothing in the Consent Agreement and Final Order shall be construed to limit the authority of the United States to undertake any action against BJ's Wholesale Club, Inc. in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

15. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of

this Consent Agreement and to execute and legally bind that party to it.

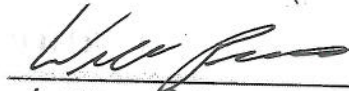
16. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this Consent Agreement and Final Order is filed with the Regional Hearing Clerk.

For Complainant:

For Respondent:



Joanna Jerison  
Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency,  
Region I



William Peter  
BJ'S Wholesale Club  
1 Merce Rd  
Natick, MA 01760


Date: 10/25/10

Date: 10/7/10

### III. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

Date: Oct. 28, 2010



Jill T. Metcalf  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region I

