

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for

Andrew Sporewski
Name of Case Attorney

4/14/09
Date

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

Case Docket Number CWA-01-2009-0022

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, Inc.
1 Memer Road
Natick, MA 01569

Total Dollar Amount of Receivable \$ 14,000

Due Date: 4/19/09

SEP due? Yes _____ No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ 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

NEW ENGLAND OFFICE
One Congress Street, Suite 1100 (SEW)
Boston, Massachusetts 02114-2023

DELIVERED BY HAND

April 14, 2009

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (Mail Code: RAA)
Boston, MA 02114-2023

RECEIVED

2009 APR 14 A 11:17

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

Re: In the Matter of: BJs Wholesale Club
CWA-01-2009-0022

Dear Ms. Santiago:

Enclosed please find the original and one copy of a Consent Agreement and Final Order ("CAFO") settling the above-captioned case. The CAFO has been signed by the parties and approved by the Regional Judicial Officer.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Spejewski".

Andrew Spejewski
Environmental Engineer

Enclosure

cc: Richard Chalpin, MA DEP

In the Matter of: BJs Wholesale Club
CWA-01-2009-0022

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified, on the date below:

Original and one copy,
hand-delivered to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (Mail Code: RAA)
Boston, MA 02114-2023

Copy by Registered Mail to:

Peter Hopley
BJ's Wholesale Club, Inc.
1 Mercer Road
Natick, MA 01569

Copy by First Class Mail to:

Richard Chalpin, Regional Director
Massachusetts Department of
Environmental Protection – Northeast
205B Lowell Street
Wilmington, Massachusetts 01887

Dated: April 14, 2009



Andrew Spejewski
U.S. EPA, Region 1
One Congress Street
Suite 1100 (Mail Code: SEW)
Boston, MA 02114-2023
617-918-1014



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1, One Congress Street, Suite 1100 (SEW)
Boston, Massachusetts 02114-2023

RECEIVED

EXPEDITED SETTLEMENT AGREEMENT
Docket Number: CWA-01-2009-0022

2009 APR 14 A 11:17

BJ's Wholesale Club, Inc. ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Center, P.O. Box 979077, St. Louis, MO 63197-9000

EPA ORC
OFFICE OF REGIONAL COUNSEL

Attached is an "Expedited Settlement Offer Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

Respondent had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed by the Presiding Officer unless a petition to set aside the Order is filed by a commenter pursuant to Section 309(g)(4)(C) of the Act, 33 U.S.C. § 1319(g)(4)(C), and 40 C.F.R. Part 22.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the deficiencies specified in the Form.

APPROVED BY EPA:

Susan Studlien Date: 02/06/09
Susan Studlien
Director
Office of Environmental Stewardship

EPA is authorized to enter into this Consent Agreement and Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$14,000. Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

APPROVED BY RESPONDENT:
BJ's Wholesale Club, Inc.

By: John Mullooney
Name (print):
Title (print): SRP Development

Signature: Date: 2/3/2009

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no comments concerning this matter.

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any deficiencies identified in the Form have been corrected.

Having determined that this Agreement is authorized by law,

Within 10 days of the effective date of this Agreement, Respondent shall submit a bank, cashiers, or certified check, with case name and docket number noted, for the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to:

IT IS SO ORDERED:

LeAnn Jensen Date: 4/9/09
LeAnn Jensen
Regional Judicial Officer

U.S. EPA, Fines and Penalties, In the Matter of: BJ's Wholesale Club, Docket No. CWA-01-2009-0022, Cincinnati Finance

**Expedited Settlement Offer Worksheet
Deficiencies Form**

Consult instructions regarding eligibility criteria
and procedures prior to use

version 10.3.4



LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	BJs Wholesale Club, Inc 1 Mercer Road Natick, MA 01569 Attn: Peter Hopely		
LOCATION AND ADDRESS OF SITE		Inspector Name: Joseph Canzano	Inspector Agency: US EPA
2	BJs Development Ward Street Revere, MA	Entrance Interview Conducted:	Exit Interview Conducted:
		Exit Interview given to:	Exit Interview time: Date:

FACILITY DESCRIPTION / CONTACT NAMES	
Name of Site Contact (ESO Worksheet recipient):	
Name of Authorized Official (40 CFR 122.22):	
Inspection Date: 09/22/2008	
Start Construction Date: 04/01/2008	
Estimated Completion Construction Date:	
If Unpermitted, Number of Months Unpermitted: 6	
Name of Receiving Water Body (Indicate whether 303(d) listed):	
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan:	
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?	

PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3 Operator unpermitted for _____ months (# months unpermitted equals number of violations)		CWA 301		6 X	\$500.00 =	\$3,000
SWPPP REVIEW						
4 SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)		CGP 3.1.A		1	\$5,000.00 =	\$5,000
5 SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A		X	\$75.00 =	
6 SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc...		CGP 3.1.B			\$250.00 =	
7 SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 3.3.A			\$500.00 =	
8 SWPPP does not have site description, as follows:						
A Nature of activity in description		CGP 3.3.B.1			\$100.00 =	
B Intended sequence of major activities		CGP 3.3.B.2			\$100.00 =	
C Total disturbed acreage		CGP 3.3.B.3			\$100.00 =	
D General location map		CGP 3.3.B.4			\$100.00 =	
E Site map		CGP 3.3.C			\$500.00 =	
F Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)		CGP 3.3.C.1-8		X	\$50.00 =	
G Location/description industrial activities, like concrete or asphalt batch plants		CGP 3.3.D			\$500.00 =	
9 SWPPP does not:						
A Describe all pollution control measures (e.g. BMPs)		CGP 3.4.A			\$750.00 =	

	B Describe sequence for implementation		CGP 3.4.A			\$250.00	=		
	C Detail operator(s) responsible for implementation		CGP 3.4.A			\$250.00	=		
10	SWPPP does not describe interim stabilization practices		CGP 3.4.B			\$250.00	=		
11	SWPPP does not describe permanent stabilization practices		CGP 3.4.B			\$250.00	=		
12	SWPPP does not describe a schedule to implement stabilization practices		CGP 3.4.B			\$250.00	=		
13	Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)		CGP 3.4.C.1-3		X	\$250.00	=		
14	SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		CGP 3.4.D			\$500.00	=		
15	SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed		CGP 3.4.E			\$500.00	=		
16	SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		CGP 3.4.F			\$500.00	=		
17	SWPPP does not describe measures to minimize off-site vehicle tracking and generation of dust		CGP 3.4.G			\$500.00	=		
18	SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials		CGP 3.4.H			\$250.00	=		
19	SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials		CGP 3.4.I			\$500.00	=		
20	SWPPP does not identify allowable sources of non storm water discharges listed in subpart 1.3.B of the CGP		CGP 3.5			\$500.00	=		
21	SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		CGP 3.5			\$500.00	=		
22	Endangered Species Act documentation is not in SWPPP		CGP 3.7			\$500.00	=		
23	Historic Properties (Reserved)								
24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)		CGP 3.8		X	\$250.00	=		
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)		CGP 3.9			\$750.00	=		
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		CGP 3.9			\$250.00	=		
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		CGP 3.10.G			\$500.00	=		
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)		CGP 3.11.C		X	\$50.00	=		
29	Copy of SWPPP not retained on site		CGP 3.12.A			\$500.00	=		
	A SWPPP not made available upon request		CGP 3.12.C			\$500.00	=		
30	SWPPP not signed/certified		CGP 3.12.D			\$500.00	=		
Subtotal SWPPP Deficiencies							\$5,000		

INSPECTIONS									
31	Inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).		CGP 3.10.A, 3.10.B		12	X	\$250.00	=	\$3,000
	No inspections conducted and documented (if True, then leave elements 32-39 blank)				TRUE		True or False		
	Number of Inspections expected if performed every 7 days:	24							
	Number of inspections expected if performed bi-weekly:	12							
	If known, number of days of rainfall of >0.5"								
32	Inspections not conducted by qualified personnel		CGP 3.10.D				\$50.00	=	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		CGP 3.10.E.				\$50.00	=	
34	All pollution control measures not inspected to ensure proper operation		CGP 3.10.E.				\$50.00	=	
35	Discharge locations are not observed and inspected		CGP 3.10.E.				\$50.00	=	
36	For discharge locations that are not accessible, nearby locations are not inspected		CGP 3.10.E.				\$50.00	=	
37	Entrance/exit not inspected for off-site tracking		CGP 3.10.E.				\$50.00	=	
38	Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)		CGP 3.10.G			X	\$50.00	=	
39	Inspection reports not properly signed/certified (count each failure to to sign/certify as 1 violation)		CGP 3.10.G			X	\$50.00	=	
Subtotal Inspections Deficiencies									\$3,000
AVAILABILITY OF RECORDS									
40	Sign/notice not posted		CGP 3.12.B				\$250.00	=	
	A Does not contain copy of complete NOI		CGP 3.12.B				\$50.00	=	
	B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		CGP 3.12.B				\$50.00	=	
Subtotal Records Deficiencies									\$0
BEST MANAGEMENT PRACTICES									
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water	Channel and basin outfall not protected	CGP 3.13.F		2		\$500.00	=	\$1,000
42	Control measures are not properly:	Silt fences missing or improperly installed in two places							
	A Selected, installed and maintained		CGP 3.13.A		2		\$500.00	=	\$1,000
	B Maintenance not performed prior to next anticipated storm event		CGP 3.6.B				\$250.00	=	
	(count each failure to select, install, maintain each BMP as one violation)								
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts	Sediment in wetlands	CGP 3.13.B		1		\$500.00	=	\$500
44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)		CGP 3.13.C				\$500.00	=	

45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation	Two areas not stabilized	CGP 3.13.D		1	\$500.00	=	\$500
	*Exceptions:							
	(a) Snow or frozen ground conditions							
	(b) Activities will be resumed within 14 days							
	(c) Arid or Semi-arid areas (<20 inches per							
46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained		CGP 3.13.E.1			\$1,000.00	=	
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope		CGP 3.13.E.2			\$1,000.00	=	
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		CGP 3.6.C			\$500.00	=	
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)		CGP 3.13.E.3			\$500.00	=	
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		CGP 3.6.C		X	\$500.00	=	
Subtotal BMP Deficiencies:								\$3,000

SMALL BUSINESS EVALUATION

48	Is the Owner/Operator a Small Business?							
	A <i>small business</i> is defined by EPA's Small Business Compliance Policy as: "a person, corporation, partnership, or other entity that employs 100 or fewer individuals (across all facilities and operations owned by the small business)." The number of employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.							

Total Expedited Settlement: \$14,000

* Requires Corrective Action

** NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>