

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
1 Congress Street  
Suite 1100 - SEL  
Boston, MA 02114-2023

RECEIVED

2009 FEB 25 P 12: 22

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

Steven C. Schlang  
Enforcement Counsel  
617-918-1773 (phone)  
617-918-1809 (fax)

February 25, 2009

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 1  
One Congress Street  
Boston, Massachusetts 02114-2023

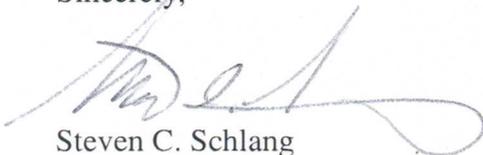
Re: In the Matter of: Galt Block Warehouse Company, Inc.  
Docket Number: EPCRA-01-2009-0037

Dear Ms. Santiago,

Enclosed please find for filing an original and one copy of the Complaint and Notice of Opportunity for Hearing regarding the above-matter.

Please do not hesitate to contact me should you have any questions regarding the enclosed.

Sincerely,



Steven C. Schlang

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

RECEIVED

2009 FEB 25 P 12: 22

\_\_\_\_\_  
In the Matter of: )  
 )  
Galt Block Warehouse Company, Inc. )  
242 Miller Street )  
Bangor, ME, 04401 )  
 )  
Respondent )  
\_\_\_\_\_ )

EPA ORG  
DOCKET HEARING CLERK  
Docket No: EPCRA-01-2009-0037

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity for a Hearing has been sent to the following persons on the date noted below:

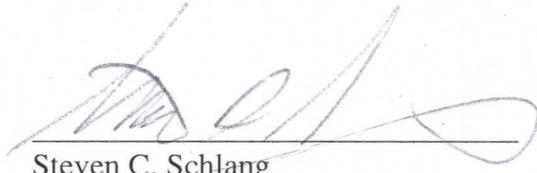
Original and One Copy  
(Hand-Delivered):

Wanda Santiago  
Regional Hearing Clerk (RAA)  
U.S. Environment Protection  
Agency, Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

Copy, including 40 C.F.R.  
Part 22 and Section 312 ERP  
(Certified Mail, Return Receipt  
Requested):

Carolyn Hamm, President  
Galt Block Warehouse Company, Inc.  
242 Miller Street  
Bangor, ME 04401

Dated: 2/25/09



Steven C. Schlang  
Senior Enforcement Counsel (SEL)  
U.S. Environmental Protection Agency, Region I  
One Congress Street, Suite 1100  
Boston, Massachusetts 02114-2023  
Tel. (617) 918-1773  
Fax (617) 918-0773

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

2009 FEB 25 P 12: 23

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In the Matter of: )  
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Galt Block Warehouse Co., Inc. )  
242 Miller Street )  
Bangor, ME 04401 )  
 )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. EPCRA-01-2009-0037

**ADMINISTRATIVE COMPLAINT  
AND  
NOTICE OF  
OPPORTUNITY FOR HEARING**

ORC  
OFFICE OF  
REGIONAL HEARING CLERK

**STATUTORY AND REGULATORY BASIS**

This is a civil administrative action issued under the authority of Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11045(c) (also known as the Emergency Planning and Community Right-to-Know Act of 1986, hereinafter "EPCRA"), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 ("Part 22"). Complainant is the Enforcement Manager of the Office of Environmental Stewardship, United States Environmental Protection Agency, Region 1 ("Complainant"). This Complaint alleges that Galt Block Warehouse Company, Inc. ("Respondent"), violated Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and the federal regulations that set out in greater detail these statutory requirements, found at 40 C.F.R. Part 370.

Under Section 312(a) of EPCRA and 40 C.F.R. §§ 370.20 and 370.25, any facility that is required to prepare or have available a material safety data sheet ("MSDS") for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder must prepare and submit an emergency and hazardous chemical inventory form (Tier

I or Tier II form) to the local emergency planning committee ("LEPC"), the state emergency response commission ("SERC"), and the local fire department. The Tier I or Tier II form must be submitted annually on or before March 1 and is required to contain information with respect to the preceding calendar year.

Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), as amended by the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321 (1996) and EPA's Civil Monetary Penalty Inflation Adjustment Rule, promulgated thereunder at 40 C.F.R. Part 19, provides that any person who violates any requirement of Section 312 between March 15, 2004 and January 12, 2009, shall be liable to the United States for a civil penalty in an amount not to exceed \$32,500 per day for each such violation.

#### **GENERAL ALLEGATIONS AND STATEMENT OF FACTS**

1. Respondent is a corporation incorporated under the laws of the State of Maine and has a usual place of business at 242 Miller Street, Bangor, ME 04401.
2. Respondent owns and operates a warehouse facility that stores a variety of chemicals, materials, and other objects, such as batteries.
3. On or about May 30, 2007, an authorized representatives of EPA inspected Respondent's facility. The purpose of the inspection was to determine Respondent's compliance with EPCRA reporting requirements.
4. Respondent is a "person," as that term is defined by Section 329(7) of EPCRA, 42 U.S.C. §11049(7).

5. Respondent is an owner or operator of a "facility," as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 370.2.

6. At all times relevant to the violations cited herein, Respondent stored hazardous chemicals at its facility in quantities that exceed the minimum threshold level ("MTL") set forth in 40 C.F.R. § 355 (Appendix A) and 40 C.F.R. § 370.20(b)(4), including but not limited to, sulfuric acid, lead, and propane.

7. At all times relevant to the violations cited herein, Respondent was required, pursuant to the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder ("OSHA"), to prepare or have available a MSDS for these substances onsite.

#### **COUNT I**

8. During calendar year 2006, Respondent stored at least the following hazardous chemicals at the facility in quantities that exceeded the MTL of 10,000 pounds set forth in 40 C.F.R. § 370.20(b)(4): lead (27,289 pounds) and propane (20,276 pounds). Respondent also stored 3,190 pounds of sulfuric acid, an extremely hazardous substance ("EHS"), in a quantity that exceeded the MTL amount of 500 pounds set forth in 40 C.F.R. §§ 355 (Appendix A) and 370.20(b)(1).

9. Respondent was required to prepare and submit an emergency and hazardous chemical inventory (Tier II) form to the SERC, LEPC and the local fire department with jurisdiction over the facility in order to report the data required by Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), for calendar year 2006 on or before March 1, 2007.

10. Respondent failed to prepare and submit a Tier II form by March 1, 2007, to the SERC, LEPC and the local fire department, in violation of the reporting requirements of Section 312(a) of EPCRA, 42 U.S.C. §11022(a), and 40 C.F.R. §§ 370.20 and 370.25.

11. Respondent is therefore subject to an assessment of penalties under Section 325(c)(1) of EPCRA, 42 U.S.C. §11045(c)(1), and 40 C.F.R. Part 19.

**PROPOSED CIVIL PENALTY**

12. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), 40 C.F.R. §§ 370.5(b) and 372.18, and 40 C.F.R. Part 19, provide that any person who violates any requirement of Section 312 between March 15, 2004 and January 12, 2009, shall be liable to the United States for a civil penalty in an amount not to exceed \$32,500 per day for each violation. Failure to report in a timely manner, as required by Section 312, may deprive the community of its right to know about chemicals used or stored near or in the neighborhood and may prevent comprehensive planning by federal, state and local authorities to properly prepare for accidental chemical releases.

13. The proposed civil penalty has been determined in accordance with Section 325(c) of EPCRA, 42 U.S.C. § 11045(c). For purposes of determining the amount of any penalty to be assessed, EPA considered the nature, circumstances, extent and gravity of the violations, and with respect to the Respondent, its ability to pay, prior history of violations, degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require. To develop the proposed penalty in this complaint, the Complainant has taken into account the particular facts and circumstances of this case with

specific reference to EPA's "Interim Final Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act" (dated September 30, 1999, as amended March 3, 2005 and June 5, 2006) ("ERP"), a copy of which is enclosed with this Complaint. This policy provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

14. Pursuant to Part V of the ERP, the first stage of calculating a penalty requires the determination of the "extent" level of the violation and the second stage concerns the "gravity" level of the violation. The "extent" of the violation alleged in Count I was determined to be "Level 1" because Respondent failed to submit the Tier II chemical inventory form to the SERC, LEPC or fire department within 30 calendar days of the reporting deadline. The "gravity" of the violation alleged in Count I was determined to be "Level B" because the amount of the hazardous chemical not reported (sulfuric acid) was greater than 5 but less than 10 times the reporting threshold.

15. Under the ERP, EPA has discretion to select an amount within the range specified in the appropriate matrix box. Respondent's failure to submit the Tier II form was determined to fall in the mid-point of the Level 1-B matrix box, based on the circumstances of the violation, resulting in a penalty of \$20,155. Pursuant to section VII.F., an adjustment to the base penalty for Count I was made, based on the size of Respondent's business, resulting in a 15% reduction of the base penalty to \$17,127.

16. The proposed penalty as stated in this Complaint was developed based on the best information available to the Agency at this time and may be adjusted if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the appropriate amount of the proposed penalty.

17. Based upon the violation cited in this Complaint, and taking into account the nature, circumstances and gravity of the violation, the Complainant proposes that Respondent be assessed a civil penalty in the amount of \$17,127 for the violation alleged in this Complaint.

**NOTICE OF OPPORTUNITY TO  
REQUEST A HEARING**

18. Respondent has the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. Any such hearing would be conducted in accordance with Part 22, a copy of which is enclosed with this Complaint.

**To avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing, and having the above-cited penalty assessed without further proceedings, Respondent must file a written Answer within thirty (30) days of Respondent's receipt of this Complaint.** The Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which Respondent has any knowledge. If Respondent has no knowledge of a particular fact and so states, the allegation is considered denied. Failure to deny an allegation constitutes an admission. Respondent's Answer must also state all facts and circumstances, if any, which

constitute grounds for a defense and, if desired, must specifically request an administrative hearing. If Respondent denies any material fact or raises any affirmative defense, Respondent will be considered to have requested a hearing. The Answer must be sent to:

Wanda Santiago  
Regional Hearing Clerk (RAA)  
U.S. Environmental Protection Agency  
Region I  
One Congress Street, Suite 1100  
Boston, Massachusetts 02114-2023

19. Respondent should also send a copy of the Answer and all other documents which Respondent files in this action to Steven Schlang, the attorney assigned to represent EPA in this matter, at:

Steven C. Schlang  
Senior Enforcement Counsel (SEL)  
U.S. Environmental Protection Agency  
Region I  
One Congress Street, Suite 1100  
Boston, Massachusetts 02114-2023

#### **QUICK RESOLUTION**

20. Under Section 22.18(a) of EPA's Consolidated Rules of Practice, Respondent has the option of resolving this matter at any time by paying in full the penalty proposed in this Complaint. Payment of the penalty may be made by a bank, cashier's or certified check, payable to "The Treasurer, United States of America." The check should also note the docket number of this Complaint ("EPCRA-01-2008-0007") and should be forwarded to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center

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

In addition, at the time of payment, notice of payment of the civil penalty and a copy of the check should also be forwarded to Wanda Santiago (Regional Hearing Clerk) and Steven Schlang, Senior Enforcement Counsel, at the addresses specified above.

**INFORMAL SETTLEMENT CONFERENCE**

21. Whether or not Respondent requests a hearing, Respondent may confer informally with Jim Gaffey, Environmental Engineer in EPA Region 1's Office of Environmental Stewardship, (617) 918-1753, concerning the facts of this case, or the amount of the proposed penalty, and the possibility of settlement. Respondent's attorney is encouraged to contact Steven Schlang, Senior Enforcement Counsel, at (617) 918-1773, to discuss the legal matters relating to this Complaint or to arrange an informal settlement conference.

**Please note that a request for an informal settlement conference does not enlarge the thirty-day period within which a written Answer must be submitted to avoid default.**

22. Payment of the civil penalty alone does not satisfy Respondent's legal obligation to file complete and accurate emergency and hazardous chemical inventory forms (Tier I or Tier II forms). If Respondent chooses to remit the proposed penalty, it is still under a legal duty to submit complete and accurate Tier I or Tier II forms. Failure or refusal to file such forms may subject Respondent to additional civil penalties of up to \$37,500 per day of violation.

23. Steven Schlang, Senior Enforcement Counsel, at the above address and telephone, has been designated to represent Complainant and is authorized to receive service of process in this action.

02/20/09  
Date

Susan Studlien  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. EPA, Region 1

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
BEFORE THE ADMINISTRATOR**

In the Matter of:	)	
	)	
Galt Block Warehouse Co., Inc.	)	Docket No. EPCRA-01-2009-0037
242 Miller Street	)	
Bangor, ME 04401	)	
	)	
	)	
Respondent	)	
	)	

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, the United States Environmental Protection Agency ("EPA"), having filed the Complaint herein against Respondent, Galt Block Warehouse Co., Inc. ("Respondent"), 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 seventeen thousand one hundred twenty-seven dollars (\$17,127), 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 chemical inventory forms for hazardous chemicals, including, but not limited to, propane and lead, stored at Respondent’s facility located at 242 Miller Street, Bangor, Maine (“facility”), in quantities equal to or greater than the chemical-specific minimum threshold for these chemicals set forth at 40 C.F.R. § 370.20(b)(4). Further, the Complaint alleges that Respondent violated regulations concerning the submission of chemical inventory forms for sulfuric acid, an extremely hazardous chemical, stored at the facility in a quantity greater than the chemical-specific minimum threshold for this chemical set forth at 40 C.F.R. § 370.20(b)(1).

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 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 Count I of the Complaint.

7. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. §11045(c), 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 eleven thousand one hundred thirty-two dollars (\$11,132).

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 eleven thousand one hundred thirty-two dollars (\$11,132), to:

US Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

Respondent shall provide copies of the check to:

Wanda Santiago  
Regional Hearing Clerk (RAA)  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

and to:

Galt Block Warehouse Company, Inc.  
EPA Docket No. EPCRA-01-2009-0037

Consent Agreement and Final Order  
Page 3

Steven C. Schlang  
Senior Enforcement Counsel (SEL)  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

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. 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).

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.

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

11. 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.

12. This Consent Agreement and Final Order in no way relieves Respondent 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 Respondent in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

13. 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.

14. 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:

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Susan Studlien  
Director  
Office of Environmental Stewardship  
U.S. Environmental Protection  
Agency, Region I

Date: \_\_\_\_\_

For Respondent

\_\_\_\_\_  
Carolyn Hamm  
President  
Galt Block Warehouse Company, Inc.

Date: \_\_\_\_\_

**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.

Date: \_\_\_\_\_

\_\_\_\_\_  
LeAnn Jensen  
Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region I