

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA

J.C. BAKER & SON, INC.
and BAKER OIL COMPANY,

Appellants,

v.

Appeal No. 22-03-EQB

KATHERYN D. EMERY, P.E., DIRECTOR,
DIVISION OF WATER AND WASTE
MANAGEMENT, DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Appellee.

**AGREED ORDER GRANTING “APPELLANTS’ MOTION FOR PERMISSION TO
CONDUCT ADDITIONAL DISCOVERY RELATED TO THE ISSUE OF WHETHER
APPELLANTS ARE OR WERE THE OWNER OR OPERATOR OF THE
UNDERGROUND STORAGE TANKS (USTs) AT ISSUE IN THIS APPEAL”**

On September 9, 2022, came appellants J. C. Baker & Son, Inc. (“J. C. Baker”) and Baker Oil Company (“Baker Oil”) (J.C. Baker and Baker Oil are collectively “Appellants”), by their counsel, R. Terrance Rodgers, of Kay Casto & Chaney PLLC, and appellee Katheryn D. Emery, P.E., Director, Division of Water and Waste Management, Department of Environmental Protection (“Appellee”), by her counsel, Charles S. Driver, of the Office of Legal Services of the West Virginia Department of Environmental Protection, and announced to the West Virginia Environmental Quality Board (“this Board”) that Appellee had no objection to *Appellants’ Motion For Permission To Conduct Additional Discovery Related To The Issue Of Whether Appellants Are Or Were The Owner Or Operator Of The Underground Storage Tanks (USTs) At Issue In This*

Appeal ("Motion") and requested that this Board enter an order granting the *Motion* and the relief requested in the *Motion*.

Having considered said agreement, this Board is of the opinion that it should be honored. Accordingly, it is hereby **ORDERED** that the *Motion* shall be, and hereby is, **GRANTED**. It is further **ORDERED** that Appellants are **PERMITTED** to serve the written discovery requests which were attached to the *Motion* on Appellee. It is further **ORDERED** that Appellee shall answer and/or respond to said written discovery requests within twenty (20) days of Appellee's receipt of them as required by West Virginia Rule 46 CSR 4.5.6. It is further **ORDERED** that this *Order Granting "Appellants' Motion For Permission To Conduct Additional Discovery Related To The Issue Of Whether Appellants Are Or Were The Owner Or Operator Of The Underground Storage Tanks (USTs) At Issue In This Appeal"* shall be, and hereby is, **EFFECTIVE nunc pro tunc** to September 9, 2022.


ENTERED:

9/19/2022


Dr. Edward Snyder, Chairperson

PRESENTED BY:


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For  with permission

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*Counsel for appellee Katheryn D. Emery, P.E.,
Director, Division of Water and Waste Management,
Department of Environmental Protection*

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DIVISION OF WATER AND WASTE
MANAGEMENT, DEPARTMENT OF
ENVIRONMENTAL PROTECTION,**

Appellee.

CERTIFICATE OF SERVICE

I hereby certify that I, Kenna M. DeRaimo, Clerk for the Environmental Quality Board, have this day, the 19th day of September, 2022, served a true copy of the foregoing **AGREED ORDER GRANTING PERMISSION TO CONDUCT ADDITIONAL DISCOVERY** to the following:

R. Terrance Rodgers, Esq.
KAY CASTO & CHANEY PLLC
Post Office Box 2031
Charleston, WV 25327
*Counsel for Appellants
J.C. Baker & Son, Inc. and
Baker Oil Company*

Via Certified U.S. First Class Mail
7021 1970 0001 1851 8014

Charles S. Driver, Esq.
WV DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF LEGAL SERVICES
601 57th Street, S.E.
Charleston, WV 25304
Counsel for WVDEP

Via Interdepartmental Mail


Kenna M. DeRaimo, Clerk