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Environmental Quality  
Board

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

Appellee.

**STIPULATIONS**

Come now appellants J. C. Baker & Son, Inc. (“J. C. Baker Inc.”) and Baker Oil Company (“Baker Oil”) (J.C. Baker Inc. and Baker Oil are collectively “Appellants”), by their counsel, R. Terrance Rodgers, of Kay Casto & Chaney PLLC, and appellee Kathryn D. Emery, P.E., Director Division of Water and Waste Management, West Virginia Department of Environmental Protection (“Appellee”), by her counsel, Charles S. Driver, Office of Legal Services, West Virginia Department of Environmental Protection, and hereby stipulate to the following as established facts solely for purposes of the evidentiary hearing scheduled to be held in this appeal on February 9, 2023, and February 10, 2023, or on such other dates as may subsequently be determined. The only issue to be heard and determined at said evidentiary hearing is whether Appellants were ever the owners or operators of the underground storage tanks (“USTs”) at issue in this appeal, and for which facts no further evidence to establish the same will be required at said evidentiary hearing as said stipulations shall be controlling as to the existence or non-existence of the stipulated facts.

A. OWNERSHIP OF BUSINESSES

Appellee and Appellants stipulate that:

1. J. C. Baker Inc. never owned the Linger's service station business located in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 92-289-L49;
2. Baker Oil never owned the Linger's service station business located in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 92-289-L49;
3. J. C. Baker Inc. never owned the Paul's service station business located in Philippi, West Virginia, the site of a leak identified by Appellee as Leak No. 92-306-L01;
4. Baker Oil never owned the Paul's service station business located in Philippi, West Virginia, the site of a leak identified by Appellee as Leak No. 92-306-L01;
5. J. C. Baker Inc. never owned the Coastal Lumber Company lumber yard/sawmill business located in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 95-021;
6. Baker Oil never owned the Coastal Lumber Company lumber yard/sawmill business located in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 95-021;
7. J. C. Baker Inc. never owned the Hamrick's service station business located in Webster Springs, West Virginia, the site of a leak identified by Appellee as Leak No. 93-034;
8. Baker Oil never owned the Hamrick's service station business located in Webster Springs, West Virginia, the site of a leak identified by Appellee as Leak No. 93-034;
9. J. C. Baker Inc. never owned the W.J. Prince's service station business located in Jane Lew, West Virginia, the site of a leak identified by Appellee as Leak No. 93-378;

10. Baker Oil never owned the W.J. Prince's service station business located in Jane Lew, West Virginia, the site of a leak identified by Appellee as Leak No. 93-378;

11. J. C. Baker Inc. never owned the Sample's service station business located in Procious, West Virginia, the site of a leak identified by Appellee as Leak No. 92-074-L08;

12. Baker Oil never owned the Sample's service station business located in Procious, West Virginia, the site of a leak identified by Appellee as Leak No. 92-074-L08;

13. J. C. Baker Inc. never owned the Steve White's service station business located in Gassaway, West Virginia, the site of a leak identified by Appellee as Leak No. 91-036-L04;

14. Baker Oil never owned the Steve White's service station business located in Gassaway, West Virginia, the site of a leak identified by Appellee as Leak No. 91-036-L04;

15. J. C. Baker Inc. never owned the Coastal Lumber Company lumber yard/sawmill business located in Hacker Valley, West Virginia, the site of a leak identified by Appellee as Leak No. 91-075-L51;

16. Baker Oil never owned the Coastal Lumber Company lumber yard/sawmill business located in Hacker Valley, West Virginia, the site of a leak identified by Appellee as Leak No. 91-075-L51;

17. J. C. Baker Inc. never owned the Clendenin service station business located in Clendenin, West Virginia, the site of a leak identified by Appellee as Leak No. 91-008-L20;

18. Baker Oil never owned the Clendenin service station business located in Clendenin, West Virginia, the site of a leak identified by Appellee as Leak No. 91-008-L20;

19. J. C. Baker Inc. never owned the Point C Mart service station business located in Lewis County, West Virginia, the site of a leak identified by Appellee as Leak No. 94-035;

20. Baker Oil never owned the Point C Mart service station business located in Lewis County, West Virginia, the site of a leak identified by Appellee as Leak No. 94-035;

21. J. C. Baker Inc. never owned the Young's service station business located in Dille, West Virginia, the site of a leak identified by Appellee as Leak No. 94-066;

22. Baker Oil never owned the Young's service station business located in Dille, West Virginia, the site of a leak identified by Appellee as Leak No. 94-066;

23. J. C. Baker Inc. never owned the C. Adam Toney Discount Tires service station business located in Summersville, West Virginia, the site of a leak identified by Appellee as Leak No. 94-056;

24. Baker Oil never owned the C. Adam Toney Discount Tires service station business located in Summersville, West Virginia, the site of a leak identified by Appellee as Leak No. 94-056;

25. J. C. Baker Inc. owned the Glenville Sunoco service station business located in Gilmer County, West Virginia, the site of a leak identified by Appellee as Leak No. 17-034, from approximately 2007 to approximately 2017.

26. Baker Oil never owned the Glenville Sunoco service station business located in Gilmer County, West Virginia, the site of a leak identified by Appellee as Leak No. 17-034.

B. OPERATION OF BUSINESSES

Appellee and Appellants hereby stipulate that:

1. J. C. Baker Inc. never operated the Linger's service station business located in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 92-289-L49;

2. Baker Oil never operated the Linger's service station business located in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 92-289-L49;

3. J. C. Baker Inc. never operated the Paul's service station business located in Philippi, West Virginia, the site of a leak identified by Appellee as Leak No. 92-306-L01;

4. Baker Oil never operated the Paul's service station business located in Philippi, West Virginia, the site of a leak identified by Appellee as Leak No. 92-306-L01;

5. J. C. Baker Inc. never operated the Coastal Lumber Company lumber yard/sawmill business located in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 95-021;

6. Baker Oil never operated the Coastal Lumber Company lumber yard/sawmill business located in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 95-021;

7. J. C. Baker Inc. never operated the Hamrick's service station business located in Webster Springs, West Virginia, the site of a leak identified by Appellee as Leak No. 93-034;

8. Baker Oil never operated the Hamrick's service station business located in Webster Springs, West Virginia, the site of a leak identified by Appellee as Leak No. 93-034;

9. J. C. Baker Inc. never operated the W.J. Prince's service station business located in Jane Lew, West Virginia, the site of a leak identified by Appellee as Leak No. 93-378;

10. Baker Oil never operated the W.J. Prince's service station business located in Jane Lew, West Virginia, the site of a leak identified by Appellee as Leak No. 93-378;

11. J. C. Baker Inc. never operated the Sample's service station business located in Procious, West Virginia, the site of a leak identified by Appellee as Leak No. 92-074-L08;

12. Baker Oil never operated the Sample's service station business located in Procious, West Virginia, the site of a leak identified by Appellee as Leak No. 92-074-L08;

13. J. C. Baker Inc. never operated the Steve White's service station business located in Gassaway, West Virginia, the site of a leak identified by Appellee as Leak No. 91-036-L04;

14. Baker Oil never operated the Steve White's service station business located in Gassaway, West Virginia, the site of a leak identified by Appellee as Leak No. 91-036-L04;

15. J. C. Baker Inc. never operated the Coastal Lumber Company lumber yard/sawmill business located in Hacker Valley, West Virginia, the site of a leak identified by Appellee as Leak No. 91-075-L51;

16. Baker Oil never operated the Coastal Lumber Company lumber yard/sawmill business located in Hacker Valley, West Virginia, the site of a leak identified by Appellee as Leak No. 91-075-L51;

17. J. C. Baker Inc. never operated the Clendenin service station business located in Clendenin, West Virginia, the site of a leak identified by Appellee as Leak No. 91-008-L20;

18. Baker Oil never operated the Clendenin service station business located in Clendenin, West Virginia, the site of a leak identified by Appellee as Leak No. 91-008-L20;

19. J. C. Baker Inc. never operated the Point C Mart service station business located in Lewis County, West Virginia, the site of a leak identified by Appellee as Leak No. 94-035;

20. Baker Oil never operated the Point C Mart service station business located in Lewis County, West Virginia, the site of a leak identified by Appellee as Leak No. 94-035;

21. J. C. Baker Inc. never operated the Young's service station business located in Dille, West Virginia, the site of a leak identified by Appellee as Leak No. 94-066;

22. Baker Oil never operated the Young's service station business located in Dille, West Virginia, the site of a leak identified by Appellee as Leak No. 94-066;

23. J. C. Baker Inc. never operated the C. Adam Toney Discount Tires service station business located in Summersville, West Virginia, the site of a leak identified by Appellee as Leak No. 94-056;

24. Baker Oil never operated the C. Adam Toney Discount Tires service station business located in Summersville, West Virginia, the site of a leak identified by Appellee as Leak No. 94-056;

25. J. C. Baker Inc. operated the Glenville Sunoco service station business located in Gilmer County, West Virginia, the site of a leak identified by Appellee as Leak No. 17-034, from approximately 2007 to approximately 2020.

26. Baker Oil never operated the Glenville Sunoco service station business located in Gilmer County, West Virginia, the site of a leak identified by Appellee as Leak No. 17-034.

C. PURCHASE OF USTs

Appellee and Appellants hereby stipulate that:

1. Appellee cannot confirm or deny Baker Oil purchased the USTs located at the Paul's service station site in Philippi, West Virginia, and which caused a leak identified by Appellee as Leak No. 92-306-L01;

2. Appellee cannot confirm or deny that Baker Oil purchased the USTs located at the Hamrick's service station site in Webster Springs, West Virginia, and which caused a leak identified by Appellee as Leak No. 93-034;

3. Appellee cannot confirm or deny that Baker Oil purchased the USTs located at the Steve White's service station site in Gassaway, West Virginia, and which caused a leak identified by Appellee as Leak No. 91-036-L04;

4. Appellee cannot confirm or deny that Baker Oil purchased the USTs located at the Clendenin service station site in Clendenin, West Virginia, and which caused a leak identified by Appellee as Leak No. 91-008-L20;

5. Appellee cannot confirm or deny that J. C. Baker Inc. purchased the USTs located at the Point C Mart site in Lewis County, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-035;

6. Appellee cannot confirm or deny that Baker Oil purchased the USTs located at the Point C Mart site in Lewis County, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-035;

7. Appellee cannot confirm or deny that J. C. Baker Inc. purchased the USTs located at the C. Adam Toney Discount Tires site in Summersville, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-056;

8. Appellee cannot confirm or deny that evidence Baker Oil purchased the USTs located at the C. Adam Toney Discount Tires site in Summersville, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-056;

9. Appellee cannot confirm or deny that Baker Oil purchased the USTs located at the Glenville Sunoco site in Gilmer County, West Virginia, and which caused a leak identified by Appellee as Leak No. 17-034.

D. INSTALLATION OF USTs

Appellee and Appellants hereby stipulate that:

1. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Linger's service station site in Buckhannon, West Virginia, and which caused a leak identified by Appellee as Leak No. 92-289-L49;



2. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Linger's service station site in Buckhannon, West Virginia, and which caused a leak identified by Appellee as Leak No. 92-289-L49;

3. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Coastal Lumber Company site in Buckhannon, West Virginia, and which caused a leak identified by Appellee as Leak No. 95-021;

4. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Coastal Lumber Company site in Buckhannon, West Virginia, and which caused a leak identified by Appellee as Leak No. 95-021;

5. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Hamrick's service station site in Webster Springs, West Virginia, and which caused a leak identified by Appellee as Leak No. 93-034;

6. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Hamrick's service station site in Webster Springs, West Virginia, and which caused a leak identified by Appellee as Leak No. 93-034;

7. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the W.J. Prince's service station site in Jane Lew, West Virginia, and which caused a leak identified by Appellee as Leak No. 93-378;

8. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the W.J. Prince's service station site in Jane Lew, West Virginia, and which caused a leak identified by Appellee as Leak No. 93-378;

9. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Sample's service station site in Prociuous, West Virginia, and which caused a leak identified by Appellee as Leak No. 92-074-L08;

10. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Sample's service station site in Prociuous, West Virginia, and which caused a leak identified by Appellee as Leak No. 92-074-L08;

11. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Steve White's service station site in Gassaway, West Virginia, and which caused a leak identified by Appellee as Leak No. 91-036-L04;

12. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Coastal Lumber Company site in Hacker Valley, West Virginia, and which caused a leak identified by Appellee as Leak No. 91-075-L51;

13. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Coastal Lumber Company site in Hacker Valley, West Virginia, and which caused a leak identified by Appellee as Leak No. 91-075-L51;

14. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Clendenin service station site in Clendenin, West Virginia, and which caused a leak identified by Appellee as Leak No. 91-008-L20;

15. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Clendenin service station site in Clendenin, West Virginia, and which caused a leak identified by Appellee as Leak No. 91-008-L20;

16. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Point C Mart site in Lewis County, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-035;

17. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Point C Mart site in Lewis County, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-035;

18. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Young's service station site in Dille, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-066;

19. Appellee cannot confirm or deny that Baker Oil installed the USTs located at Young's service station site in Dille, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-066;

20. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the C. Adam Toney Discount Tires site in Summersville, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-056;

21. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the C. Adam Toney Discount Tires site in Summersville, West Virginia, and which caused a leak identified by Appellee as Leak No. 94-056;

22. Appellee cannot confirm or deny that J. C. Baker Inc. installed the USTs located at the Glenville Sunoco site in Gilmer County, West Virginia, and which caused a leak identified by Appellee as Leak No. 17-034.

23. Appellee cannot confirm or deny that Baker Oil installed the USTs located at the Glenville Sunoco site in Gilmer County, West Virginia, and which caused a leak identified by Appellee as Leak No. 17-034.

E. CHAIN OF TITLE TO, AND OWNERSHIP OF, REAL PROPERTY

Appellee and Appellants hereby stipulate that:

1. J. C. Baker Inc. does not appear in the chain of title for, and never owned, the real property on which the Linger's service station in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 92-289-L49, was, or is, located;

2. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the Linger's service station in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 92-289-L49, was, or is, located;

3. J. C. Baker Inc. does not appear in the chain of title for, and never owned, the real property on which the Paul's service station in Phillippi, West Virginia, the site of a leak identified by Appellee as Leak No. 92-306-L01, was or is, located;

4. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the Paul's service station in Phillippi, West Virginia, the site of a leak identified by Appellee as Leak No. 92-306-L01, was or is, located;

5. J.C. Baker, Inc. does not appear in the chain of title for, and never owned, the real property on which the Coastal Lumber Company conducted business in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 95-021;

6. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the Coastal Lumber Company conducted business in Buckhannon, West Virginia, the site of a leak identified by Appellee as Leak No. 95-021;

7. J. C. Baker Inc. does not appear in the chain of title for, and never owned, the real property on which the W.J. Prince's service station in Jane Lew, West Virginia, the site of a leak identified by Appellee as Leak No. 93-378, was, or is, located;

8. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the W.J. Prince's service station in Jane Lew, West Virginia, the site of a leak identified by Appellee as Leak No. 93-378, was, or is, located;

9. J. C. Baker Inc. does not appear in the chain of title for, and never owned, the real property on which the Sample's service station in Prociuous, West Virginia, the site of a leak identified by Appellee as Leak No. 92-074-L08, was, or is, located;

10. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the Sample's service station in Prociuous, West Virginia, the site of a leak identified by Appellee as Leak No. 92-074-L08, was, or is, located;

11. J. C. Baker Inc. does not appear in the chain of title for, and never owned, the real property on which the Coastal Lumber Company conducted business in Hacker Valley, West Virginia, the site of a leak identified by Appellee as Leak No. 91-075-L51;

12. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the Coastal Lumber Company conducted business in Hacker Valley, West Virginia, the site of a leak identified by Appellee as Leak No. 91-075-L51;

13. J.C. Baker Inc. does not appear in the chain of title for, and never owned, the real property on which Young's service station in Dille, West Virginia, the site of a leak identified by Appellee as Leak No. 94-066, was, or is, located.

14. Baker Oil does not appear in the chain of title for, and never owned, the real property on which Young's service station in Dille, West Virginia, the site of a leak identified by Appellee as Leak No. 94-066, was, or is, located.

15. Baker Oil does not appear in the chain of title for, and never owned, the real property on which C. Adam Toney Discount Tires in Summersville, West Virginia, the site of a leak identified by Appellee as Leak No. 94-056 was, or is, located;

16. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the Clendenin service station in Clendenin, West Virginia, the site of a leak identified by Appellee as Leak No. 91-008-L20, was, or is, located;

17. Baker Oil does not appear in the chain of title for, and never owned, the real property on which Hamrick's service station in Webster Springs, West Virginia, the site of a leak identified by Appellee as Leak No. 93-034, was, or is, located;

18. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the Point C Mart in Lewis County, West Virginia, the site of a leak identified by Appellee as Leak No. 94-035, was, or is, located.

19. Baker Oil does not appear in the chain of title for, and never owned, the real property on which Steve White's service station in Gassaway, West Virginia, the site of a leak identified by Appellee as Leak No. 91-036-L04, was, or is, located;

20. Baker Oil does not appear in the chain of title for, and never owned, the real property on which the Glenville Sunoco service station in Gilmer County, West Virginia, the site of a leak identified by Appellee as Leak No. 17-034, was, or is, located.


F. ADDITIONAL STIPULATION

Appellee and Appellants hereby stipulate that:

All of the USTs at issue in this appeal have been removed from the real property on which they were located.

STIPULATED TO BY:

  
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For CHARLES S. DRIVER (WVSB #9846) with permission  
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