

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.

**AGREED ORDER GRANTING
"MOTION TO TAKE JUDICIAL NOTICE"**

On a prior day came appellants J. C. Baker & Son, Inc. ("Baker, Inc.") and Baker Oil Company ("Baker Oil") (Baker, Inc. 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, West Virginia Department of Environmental Protection ("DEP"), by her counsel, Charles S. Driver and Brooke A. Hirst, of the Office of Legal Services of the DEP, and announced to this Board that they had agreed that Appellants' *Motion To Take Judicial Notice* which was filed with this Board on April 14, 2023, should be granted by this Board and that the Deed which is the subject of said *Motion* should be made a part of the record in this administrative appeal. Having considered said agreement, this Board is of the opinion that it should be honored, and that Appellants' *Motion To Take Judicial Notice* should be granted and the Deed which is the subject of said *Motion* should be made a part

of the record in this administrative appeal. Accordingly, it is hereby **ORDERED** that Appellants' *Motion To Take Judicial Notice* shall be, and hereby is, **GRANTED**. It is further **ORDERED** that the Deed, which is attached as "Exhibit A"

shall be, and hereby is, made a part of the record in this administrative appeal.

ENTERED: APRIL 28, 2023

Kenna M DeRaimo
for Dr. Edward Snyder, Chairperson

PRESENTED BY:

R. Terrance Rodgers
R. TERRANCE RODGERS (WVSB #3148)
KAY CASTO & CHANEY PLLC
P. O. Box 2031
Charleston, West Virginia 25327
(304) 720-4217 / Telephone
(304) 345-8909 / Telefax
trodgers@kaycasto.com
*Counsel for appellants J.C. Baker & Son,
Inc. and Baker Oil Company*

For R. Terrance Rodgers with permission
CHARLES S. DRIVER (WVSB #9846)
BROOKE A. HIRST (WVSB #13892)
OFFICE OF LEGAL SERVICES
WEST VIRGINIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
601 57th Street, S.E.
Charleston, West Virginia 25304
(304) 926-0460 / Telephone
(304) 926-0461 / Telefax
charles.s.driver@wv.gov
brooke.hirst@wv.gov
*Counsel for appellee Kathryn D. Emery, P.E.,
Director, Division of Water and Waste Management,
Department of Environmental Protection*

EXHIBIT A

BOOK 253 PG 660

24227

THIS DEED, Made this 1st day of September, 1993 by and between RUTH BAKER SMITH, single, party of the first part, grantor, and J. C. BAKER & SONS, INC., party of the second part, grantee.

W I T N E S S E T H:

THAT, for and in consideration of the sum of Seventy Three Thousand, Nine Hundred Thirty Dollars (\$73,930.00), cash in hand paid, the receipt of which is hereby acknowledged, the said parties of the first part do hereby grant, bargain, sell and convey, with covenants of GENERAL WARRANTY of title unto the said party of the second part, J. C. Baker & Sons, Inc., that certain lot, tract and parcel of real estate and the appurtenances situate on the waters of Elk River, leaving Webster Springs on the right hand side of the road on State Route 20, in the Corporation of Addison, Fork Lick District, Webster County, West Virginia and commonly known as the Island in Elk River, and more particularly bounded and described as follows, to-wit:

BEGINNING at a mile post on State Route 20, going North 87° and East 20° for a distance of 151.6 feet, then North 81° and East 33° for a distance of 188.65 feet to a 25 foot street adjoining the Monongahela Power Building; then North 90°-30° West for a distance of 175.68 feet. Beginning at same mile post on river side of Elk Motor Sales and going South 69°-16° East for a distance of 391.22 feet to stake at 25 foot streetway. This parcel of land is more particularly described as Lot No. 1 on "The Island", J. C. Baker Addition of Town of Addison, Webster County, West Virginia which map is of record in the office of the Clerk of Webster County. And being the same real estate conveyed unto Ruth Baker Smith by J. C. Baker and Blanche Baker, his wife, by deed dated January 29, 1952, and of record in the Office of the Clerk of the County Commission of Webster County, in Deed Book 110 at Page 370.

This conveyance is hereby expressly made subject to any and all exceptions, reservations, conditions and limitations in the record chain of title of the real estate hereby conveyed, and to any and all outconveyances of prior record.

DECLARATION OF CONSIDERATION OF VALUE: Under the penalties of fine and imprisonment as provided by law, the undersigned presents for recordation and represents that she is familiar with the property transferred by this document to which this declaration is appended and to the best of her knowledge and belief the true and actual value of the property transferred thereby is \$73,930.00.

WITNESS the following signature:

Ruth B. Smith
RUTH BAKER SMITH

STATE OF WEST VIRGINIA,
COUNTY OF BRAXTON, to-wit:

I, Michael C. Baker, a Notary Public, in and for the State and County aforesaid, do hereby certify that RUTH BAKER SMITH, whose name is signed to the deed and writing above, bearing date the 1st day of September, 1993, has this day acknowledged the same before me in my said state and county.

Given under my hand this 1st day of September, 1993.

My commission expires: 4-30-96

Michael C. Baker
NOTARY PUBLIC

This document prepared by:

WILLIAM C. GARRETT
Attorney at Law
Post Office Box 125
Gassaway, WV 26624

9701535 WEBSTER COUNTY
Nov 26 2001 \$325.60

STATE OF
WEST
VIRGINIA



T.J.P.
Real Estate
Excise Tax

RECORDED
2001 MAY 28 AM 11:16
TERRY J. PAYNE, CLERK
WEBSTER COUNTY COMMISSIONER, WV

STATE OF WEST VIRGINIA, Webster County

Commission Clerk's Office November 26, 2001

The foregoing Deed together with the certificate of its acknowledgment, was this day presented in said office and admitted to record.

Teste: Terry J. Payne Clerk

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD

**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.

CERTIFICATE OF SERVICE

I, Kenna M. DeRaimo, Clerk for the Environmental Quality Board, hereby certify that on this day, the 28th of April, 2023, have served a true copy of the foregoing **AGREE ORDER GRANTING MOTION TO TAKE JUDICIAL NOTICE** 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 8786

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