

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD  
CHARLESTON, WEST VIRGINIA

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

Appellants,

v.

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

Appellee.

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Environmental Quality  
Board

Appeal No. 22-03-EQB

**JOINT MOTION TO ALTER OR AMEND JUDGMENT TO CLARIFY THAT THE  
*BIFURCATED HEARING ORDER (OWNERSHIP OF SUBJECT USTS)* ENTERED  
ON FEBRUARY 16, 2024 IS A FINAL JUDGMENT ORDER ON THE MATTER  
TRIED ON FEBRUARY 8 AND 9, 2023**

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 Katheryn Emery, P.E., Director, Division Of Water And Waste Management, Department Of Environmental Protection ("Appellee"), by her counsel, Charles S. Driver, Office of Legal Services, West Virginia Department Of Environmental Protection, and, in reliance on Rule 59(e) of the West Virginia Rules of Civil Procedure, made applicable to this appeal by Rule 6.13 of the Procedural Rules Governing Appeals Before The Environmental Quality Board, jointly move that the West Virginia Environmental Quality Board ("Board") amend its *BIFURCATED HEARING ORDER (Ownership of Subject USTs)* entered on February 16, 2024 in this appeal ("*Order*"), to state


that it is a final judgment order of the matter tried before the Board on February 8 and 9, 2023, and that there is no just reason for delay regarding any appeal of the *Order*. Appellants and Appellee so move because they both agree that to obtain a final non-appealable judgment of the matter tried before the Board on February 8 and 9, 2023, would be beneficial to Appellants, Appellee, and the Board before any further matters regarding this appeal are brought before the Board, in that the outcome of any appeal of the *Order* could have a significant impact on any additional proceedings which might be tried before the Board in this appeal, potentially narrowing the evidence that is presented to the Board and the findings which the Board would be required to make, most likely saving significant time and resources.

**WHEREFORE**, Appellants and Appellee jointly request that the Board alter or amend the *Order* to state that the *Order* is a final judgment order on the matter tried before the Board on February 8 and 9, 2023, and that there is no just reason for delay regarding any appeal of the *Order*.

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

Appellants,

BY COUNSEL:




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KATHERYN D. EMERY, P.E.,  
Director, Division of Water and  
Waste Management, West Virginia  
Department of Environmental  
Protection,

Appellee,

BY COUNSEL:

  
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