

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

**AMENDED JOINT MOTION TO CONTINUE EVIDENTIARY
HEARING AND RESCHEDULE PREHEARING STATUS CONFERENCE**

Come now appellants J. C. Baker & Son, Inc. and Baker Oil Company (collectively “Appellants”), by their counsel, R. Terrance Rodgers, of Kay Casto & Chaney PLLC, and appellee Katheryn Emery, P.C., Director, Division of Water and Waste Management, Department of Environmental Protection (“Appellee”), by her counsel, Charles S. Driver, and jointly move the West Virginia Environmental Quality Board (“Board”) for the entry of an order: (a) continuing the evidentiary hearing from its previously scheduled date of the August 15, 2024 meeting of the Board, to the October 10, 2024 meeting of the Board; and (b) continuing the prehearing status conference from its previously scheduled date of July 25, 2024, to September 26, 2024. In further support of this *Amended Joint Motion*, Appellants and Appellee state as follows.

1. Pursuant to the *Notice Of Hearing And Prehearing Status Conference* entered by the Board on April 26, 2024, a certain evidentiary hearing is currently scheduled to be conducted on Thursday, August 15, 2024.

2. Appellants and Appellee anticipate that it is very possible that said evidentiary hearing could end up carrying over until Friday, August 16, 2024.

3. One of the attorneys representing Appellants has a medical procedure, which has been scheduled for quite some time, set for Friday, August 16, 2024; thus, Appellants' counsel would not be available for the evidentiary hearing currently scheduled to be conducted by the Board on Thursday, August 15, 2024, and Friday, August 16, 2024.

4. Appellants and Appellee understand that the next regularly scheduled meeting of the Board is set for Thursday, September 12, 2024; however, one of the attorneys representing Appellants is scheduled to be in a trial in the Circuit Court of Wayne County, West Virginia, on Monday, September 9, 2024, and even if said trial was concluded by Thursday, September 12, 2024, Appellants and Appellee agree that said counsel would not have adequate time to prepare for an evidentiary hearing which would begin on Thursday, September 12, 2024, and which would presumably carry over to Friday, September 13, 2024.

5. Appellants and Appellee have agreed to request a continuance of the evidentiary hearing to be conducted by this Board, to the regularly scheduled October 2024 meeting of the Board, which Appellants and Appellee understand is to begin on Thursday, October 10, 2024.

6. Appellants and Appellee further agree that there is no urgency in having the evidentiary hearing conducted by the Board, and that neither Appellants nor Appellee would be prejudiced by an approximate two (2) months delay in the conducting of said evidentiary hearing.

WHEREFORE, based upon all the foregoing, Appellants and Appellee respectfully request that the Board grant this *Amended Joint Motion* and enter an order: (a) continuing the evidentiary hearing from its previously scheduled date of the August 15, 2024 meeting of the Board, to the October 10, 2024 meeting of the Board; and (b) continuing the prehearing status conference from its previously scheduled date of July 25, 2024, to September 26, 2024.

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

Appellants,

BY COUNSEL:




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

Appellee,

BY COUNSEL:

for  *with permission*
CHARLES S. DRIVER (WVSB # 9846)
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MANAGEMENT, DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Appellee.

**AGREED ORDER GRANTING “AMENDED JOINT MOTION
TO CONTINUE EVIDENTIARY HEARING AND RESCHEDULE
PREHEARING STATUS CONFERENCE”**

On a prior day, appellants J.C. Baker & Son, Inc. and Baker Oil Company, and appellee Kathryn Emery, P.E., Director, Division of Water and Waste Management, Department of Environmental Protection, filed their *Amended Joint Motion To Continue Evidentiary Hearing And Reschedule Prehearing Status Conference (“Joint Motion”)* and, in so doing, moved the West Virginia Environmental Quality Board (“Board”) for a continuance of a certain evidentiary hearing and a certain prehearing status conference. Having considered the *Amended Joint Motion*, the Board has determined it should be granted. Accordingly, it is hereby **ORDERED** that the *Amended Joint Motion* shall be, and hereby is, **GRANTED**.

It is further **ORDERED** that the evidentiary hearing shall be, and hereby is, **CONTINUED** from the August 15, 2024 meeting of the Board, to the October 10, 2024 meeting of the Board. Said evidentiary hearing will begin at 8:30 a.m., at the Board's offices at 601 57th Street, S.E., Charleston, Kanawha County, West Virginia. Parties may appear in person or remotely. If appearing in person, the parties shall appear at the Board's offices. If appearing remotely, the parties shall participate using a Zoom link which will be provided prior to said evidentiary hearing.

It is further **ORDERED** that the prehearing status conference shall be, and hereby is, **CONTINUED** from July 25, 2024, at 10:00 a.m., until September 26, 2024, at 10:00 a.m. Parties may participate in said prehearing status conference only by using a Zoom link which will be provided prior to said prehearing status conference.

ENTERED this _____ day of July, 2024.

WEST VIRGINIA ENVIRONMENTAL
QUALITY BOARD

Edward Snyder, Chairman

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA

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DIVISION OF WATER AND WASTE
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Appellee.

CERTIFICATE OF SERVICE

I hereby certify that I, Kenna M. DeRaimo, Clerk for the Environmental Quality Board, have this day, the ____ day of July, 2024, served a true copy of the foregoing *Agreed Order Granting "Amended Joint Motion To Continue Evidentiary Hearing And Reschedule Prehearing Status Conference" And Notice Of Hearing* to the following, via regular United States mail, postage prepaid, in envelopes addressed as follows:

R. Terrance Rodgers, Esquire
Kay Casto & Chaney PLLC
P.O. Box 2031
Charleston, West Virginia 25327

Charles S. Driver, Esquire
WV Department of Environmental Protection
Office of Legal Services
601 57th Street, S.E.
Charleston, West Virginia 25304

Kenna M. DeRaimo, Clerk