



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**MAR 17 2014**

REPLY TO THE ATTENTION OF:

Mr. Peter Coulopoulos  
Summit Inc.  
6901 West Chicago Avenue  
Gary, Indiana 46406

Re: Complaint and Compliance Order      **RCRA-05-2014-0006**  
Summit Inc.  
U.S. EPA ID No.: INX 000028902

Dear Mr. Coulopoulos:

Enclosed is a Complaint and Compliance Order (Complaint) under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C § 6928(a). The Complaint alleges violations of RCRA, 42 U.S.C § 6901 *et seq.*

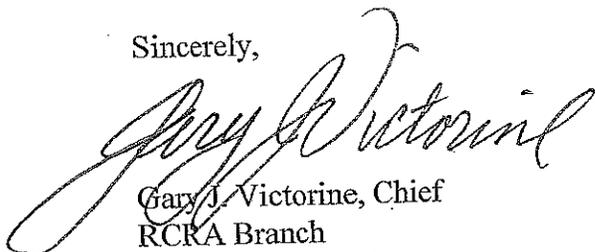
As provided in the Complaint, if you would like to request a hearing, you must do so in the Answer to the Complaint. Please note that if you do not file an Answer with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, within thirty (30) days of receipt of this Complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

Regardless of whether you choose to file an answer and request a hearing within thirty (30) days of receiving the complaint, EPA extends you the opportunity to continue settlement discussions. A request for an informal settlement conference with EPA will not affect or extend the 30 day deadline to file an Answer.

In addition, whether or not you request a hearing, you may request an informal settlement conference.

To request an informal settlement conference, or if you have any questions about this matter, you may contact Spiros Bourgikos, at (312) 886-6862.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary J. Victorine".

Gary J. Victorine, Chief  
RCRA Branch

Enclosures

cc: Nancy Johnston, IDEM ([njohnsto@idem.in.gov](mailto:njohnsto@idem.in.gov))

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. RCRA-05-2014-0006</b>
	)	
<b>Summit, Inc.</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>6901 West Chicago Avenue</b>	)	<b>Under Section 3008(a) of the Resource</b>
<b>Gary, Indiana</b>	)	<b>Conservation and Recovery Act,</b>
	)	<b>42 U.S.C. § 6928(a)</b>
<b>U.S. EPA ID #: INX 000 028 902</b>	)	
	)	
<b>Respondent.</b>	)	

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**Complaint and Compliance Order**

**Preliminary Statement**

1. This is a civil administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act, as amended (RCRA), 42 U.S.C. § 6928(a). This action is also instituted under Sections 22.1(a)(4), 22.13 and 22.37 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits” (Consolidated Rules), codified at 40 C.F.R. Part 22.
2. The Complainant is by lawful delegation the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Indiana pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), 3006(h) and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), 6926(h) and 6928.

5. Respondent is Summit, Inc., a corporation doing business and incorporated in the State of Indiana.

### **Statutory and Regulatory Background**

6. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, or dispose of hazardous waste, including used oil, pursuant to Sections 3002-3005, 3006 and 3014 of RCRA, 42 U.S.C. §§ 6922-6925, 6926 and 6935.

7. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939(e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

8. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Indiana final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986, 51 Fed. Reg. 3778 (January 31, 1986). The federally-authorized Indiana regulations that govern generators of hazardous waste are codified at 329 IAC § 3.1-7-1 *et seq.* The federally-authorized Indiana regulations that govern facilities that treat, store or dispose of hazardous waste, and that govern the owners and operators of such facilities, are codified at 329 IAC §§ 3.1-9-1 *et seq.* (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal

Facilities), and 329 IAC §§ 3.1-10-1 *et seq.* (Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities).

9. Facilities that treat, store, or dispose of hazardous waste must obtain either a permit or interim status pursuant to 329 IAC § 3.1-13-1 *et seq.* and 40 C.F.R. § 270.1, and Sections 3005 of RCRA, 42 U.S.C. § 6925.

10. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides U.S. EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program. Any violation of regulations promulgated pursuant to Subtitle C, Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6039, or any State program approved by EPA pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA, subject to the assessment of civil or criminal penalties and compliance orders as provided in § 3008 of RCRA, 42 U.S.C. § 6928.

11. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

12. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 and \$37,500

per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009. The Indiana regulations at 329 IAC § 3.1-4-20 and 40 C.F.R. §260.10, define a “person” to include an individual, partnership, corporation, association and other entities.

13. The Indiana regulations at 329 IAC §3.1-4-1, and 40 C.F.R. § 260.10, define an “operator” as the person responsible for the overall operation of a facility.

14. The Indiana regulations at 329 IAC §§ 3.4-1 define an “owner” as the person *who owns* a facility or part of a facility.

15. The Indiana regulations at 329 IAC §§ 3.1-4-1 and 40 C.F.R. § 260.10 define “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in 35 IAC §§ 3.1-6-1 *et seq.* or whose act first causes a hazardous waste to become subject to regulation.

16. The Indiana regulations at 329 IAC §§ 3.1-4-1 and 40 C.F.R. § 260.10 define “facility” as, *inter alia*, all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

17. The Indiana regulations at 329 IAC §§ 3.1-4-1 and 3.1-6-1 *et seq.* and 40 C.F.R. § 261.2 define the term “solid waste” as any discarded material that is not excluded by 40 C.F.R. § 261.4(a) or that is not excluded by variance granted under 40 C.F.R. §§ 260.30 and 260.31.

18. The Indiana regulation at 329 IAC § 3.1-6-1 and 40 C.F.R. § 261.3, defines a solid waste as a “hazardous waste” if, *inter alia*, (1) it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b), and (2) it exhibits any of the characteristics of hazardous waste identified in 40 C.F.R. Part 261, Subpart C, §§ 261.20 to 261.24 (i.e., the characteristics of ignitability, corrosivity, reactivity, or toxicity), or it is listed under 40 C.F.R.

Part 261, subpart D, and has not been excluded from the lists in subpart D by virtue of 40 C.F.R. §§ 260.20 and 260.22.

19. The Indiana regulation at 329 IAC § 3.1-6-1, and 40 C.F.R. 261, contains a list of classes and types of hazardous wastes that have been listed on the basis that the class or type of waste is ignitable waste, corrosive waste, reactive waste, toxicity characteristic waste, acute hazardous waste, or toxic waste.

20. The Indiana regulation found at 329 IAC § 4-1, and 40 C.F.R. § 260.10 define “storage” as the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

21. The Indiana regulation found at 329 IAC §§ 3.1- 4-1 and 40 C.F.R. § 260.10, define a *hazardous waste management unit* as a contiguous area of land on or in which hazardous waste is placed. It includes a container storage area.

22. The Indiana regulation found at 329 IAC §§ 3.13-1, and 40 C.F.R. §§270.1(c) and 270.10(e) and (f) prohibit the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit for the hazardous waste management activity.

23. The Indiana regulations 329 IAC §§ 3.1-7 and 13-6, 40 C.F.R. §§ 261.5 and 262.34 exempts generators of hazardous waste from the permit requirements if certain conditions are met. The conditions are dependent on the amount of hazardous waste generated or accumulated by the generator in a calendar month. The conditions for large quantity generators (LQG) (i.e., produce or accumulate greater than 1000 kilograms of hazardous waste in a month) are contained in 40 C.F.R. § 262.34(a). The conditions for small quantity generators (SQG) (i.e.,

produce or accumulate between 100 and 1000 kilograms of hazardous waste in a month) are contained in 40 C.F.R. §262.34(d). The conditions for conditionally exempt small quantity generators (CESQG) (i.e., produce less than 100 kilograms of hazardous waste in a month) are contained in 40 C.F.R. §261.5(g)(2)).

### **General Allegations**

24. Respondent owns and operates an automobile scrap recycling facility located at 6901 West Chicago Avenue, Gary, Indiana (hereinafter referred to as “the Summit Site” or “Site”).

25. The property where Respondent conducts its scrap recycling business is bounded on the north by Chicago Avenue, on the northeast by Industrial Avenue (also referred to as U.S. Route 12 or Airport Road) and on the Southeast by the E & J Railroad and the Gary Airport. It is approximately 40 acres. See Exhibit 1 (Google Earth Maps 2014) and Exhibit 2 (Summit Site Map).

26. There are wetland areas on or near the southern portion of the site. During the inspection there were frogs present.

27. Respondent does not have a wastewater treatment system on site. It does not have a permit for the discharge of pollutants to the waters of the United States.

28. At all times relevant to this Complaint, Respondent purchased automobiles, evacuated and collected gasoline, batteries, mercury, catalytic converters and tires with aluminum wheels. After removing these items it crushed cars for delivery to a shredding company. It received approximately 100 vehicles per day in 2008.

29. At all times relevant to this Complaint Respondent’s operations generated liquids

such as engine and crankcase oils, anti-freeze, transmission and power steering fluids and windshield wiper fluid from its automobile crushing operations. These fluids were not removed from automobiles prior to crushing.

30. Respondent is a corporation and therefore is a "person" as defined by 329 IAC § 3.1-4-1 [40 C.F.R. 260.10], and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

31. On or about April 2, 2008, EPA conducted an inspection at the Summit Site. During this inspection EPA inspectors observed two car crushers. The first car crusher was located on a large cement pad east of the entrance and next to the fence along the side of Industrial Highway. The second car crusher was located on a second pad further southeast. See Exhibits 2 and 3.

32. Used oil and other automobile fluids were stored near the large cement pad in several containers and on two drip pads. The containers were unmarked. Cars were stacked 2-3 vehicles high on drip trays on the pad. The pad was sloped toward the center to a drain. The drain was connected to an oil-water separator. See Exhibit 4. The oil-water separator was releasing liquids outside of the pad to the ground.

33. The crusher located at the northwest end of the Site was being drained of hydraulic oil into a five gallon pail. See Exhibit 5. There were other pails with oily residue near the crusher. These containers were unmarked.

34. Further southeast, there was a second crusher and a horizontal gray tank used to store used oil from the crusher. The crusher hydraulic oil drained into a five gallon bucket which was unmarked. There was a metal containment structure which consisted of 4 sides a floor and no top located near the second crusher. The containment structure was covered by a blue tarp

which was weighted down with tires. The gray tank and the drums in the containment structure were unmarked. Between the crusher pad and the fence, there was a pile of tires, and a large puddle of greenish fluid with a sheen. See Exhibit 6.

35. Once crushed, the cars were placed in metal pans where the fluids were drained further. See Exhibit 7.

36. Crushed cars were shrink wrapped and stacked on-site. During the inspection EPA inspectors observed crushed vehicles with oil dripping on their sides; wooden pallets and the ground beneath the crushed vehicles saturated with oil. See Exhibit 8.

37. Further southeast along Industrial Highway there was a three sided shed ("gasoline recovery shed" or "shed") where Respondent drained gasoline from cars prior to crushing. The process involved using a spike over a catch basin above the pad so that a front-loader or fork lift could impale a car's gasoline tank. The gasoline would drain by gravity to a 2,500 gallon horizontal tank. See Exhibit 2 area delineated as "Canopy" and Exhibit 9. The gasoline was stored in a 2,500 gallon horizontal tank.

38. After the gasoline was drained Respondent crushed the auto. Additional automotive fluids such as crankcase oil, transmission fluid and brake fluid, drain to the crusher pad and car trays.

39. There were plastic totes full of auto batteries located at the Site during the April 2008 inspection. Some of the totes were filled with liquids. One tote had a two inch opening at the bottom. Batteries were also stored in the back of a pick-up truck. Some of these batteries were cracked open. Respondent could not identify the liquids in the tote at that time. These containers were unmarked. See Exhibit 10.

40. Next to the tote there were two five gallon un-marked buckets that contained mercury switches. See Exhibit 11.

41. Respondent stored several 55 gallon drums located inside and outside the area near the shed. During the April 2008 inspection EPA observed a Beaver Oil Company truck pumping liquids from the unlabelled drums into a tanker truck. The driver informed EPA that he was pumping out used oil and that he had already pumped out 11 drums of used oil. There were 19 more drums remaining. None of the drums were marked. See Exhibit 12.

42. The EPA inspectors conducted an exit interview at the conclusion of the inspection. The EPA inspectors informed the Respondent of their observations including, but not limited to, concerns about the management of used oil and batteries, the leaks and drips of automotive fluids on the ground and the lack of proper labeling. The EPA inspectors did not conduct a record review while on-site.

43. On or about July 7, 2008, EPA issued to Respondent an information request under Section 3007 of RCRA. Among other things, EPA requested the Respondent to identify the wastes generated at the site. EPA also requested the Respondent to provide copies of any and all waste analyses conducted on the waste generated at the site and other documents needed to conduct a record review.

44. On or about August 15, 2008, Respondent submitted a response to EPA's information request. In the response, Respondent stated that: a) the waste generated at the Site consisted of used oil, antifreeze and other car fluids from the crushing operations; b) these waste streams were collected in various containers including buckets, drip pans and drums and transferred to above ground storage tanks and then taken by Beaver Oil Co., Inc., located in

Hopkins, Illinois with a bill of lading; c) that the oil water separator collected rain water and automotive fluids from the crushing operation; d) that Respondent removed the oil water separator in June of 2008; e) that Respondent had not conducted any waste analysis on any of the automotive fluid wastes generated at the site but instead relied upon the waste analysis conducted by Beaver Oil; f) that Respondent had not conducted an analysis of the liquid wastes accumulated in the battery storage totes; g) that Respondent had discontinued use of the totes; h) that spills of automotive fluids are cleaned up daily with oil dry and placed in garbage boxes; and i) the batteries in the totes were picked-up by T&S Trading, Inc.

45. On or about July 24, 2008, EPA issued an information request under Section 3007 of RCRA to Beaver Oil Co., Inc. (Beaver Oil).

46. EPA asked Beaver Oil to submit information on the amounts and types of waste received from the Summit Site for the time period of January 1, 2008 to the date of the receipt of the request.

47. On August 27, 2008, EPA received Beaver Oil's response which was dated August 19, 2008.

48. For the time period mentioned in Paragraph 46, Beaver Oil received from Respondent approximately 27,771 gallons of liquid wastes segregated by Beaver Oil as three separate waste streams – used oil, antifreeze and gasoline.

49. Beaver Oil received approximately 11,871 gallons of used oil and antifreeze and 15,900 gallons of gasoline. It tested these liquid waste streams only for flash, bottom, sediments and water and pH. It did not test these liquid waste streams using the TCLP test method.

50. Beaver Oil sold the liquids identified in paragraph 48. The used oil was sold to

industrial burners. The antifreeze was sold to a broker in the antifreeze recycling industry. The gasoline was sold to a refiner of motor fuels.

51. EPA issued an information request under Section 3007 of RCRA to T&S Trading, Inc. (T&S).

52. On August 12, 2008, T&S submitted a response to EPA's Section 3007 RCRA information request. T&S indicated that it collected only the batteries and shipped them to Gopher Resources Corp. It did not collect the totes or the liquids in them. It did not test these liquids but indicated that it thought they were battery acids.

53. On March 18, 2009, EPA conducted a sampling inspection at the Summit Site.

54. During the sampling inspection EPA collected several samples from the liquids stored in or around the gasoline recovery shed and observed conditions at the site.

55. EPA observed that the area where the oil water separator was located during the April 2, 2008, inspection had been paved over. There was a new shredder. Throughout the Site there were large piles of crushed vehicles. The cars had staining and dripping of brownish liquids such as oils from the automobiles. The same staining occurred on the soils near them. The soils were saturated such that it looked like they had been there for a while with the automotive liquids in them.

56. EPA observed a metal box with two 55-gallon drums located east of Crusher #1. The box was half full of a brownish liquid with an oily sheen. The box and drums were unmarked. Exhibit 13. EPA inspectors took samples from the metal box (3180901 and 3180902) and the drums (3180903 and 3180904).

57. In the gasoline recovery shed EPA observed a large green tank, a smaller red tank

and approximately 39 drums. The green tank was placed inside a steel box. Inside the steel box there was over one foot of a reddish liquid. There was a gasoline or diesel fuel smell near the box. Exhibit 14

58. The 39 drums were unmarked and most of them appeared to be filled with a liquid. EPA collected samples from 4 drums within the gasoline recovery shed – drum 1 (3180905, 6 and 7), drum 2 (3180908, 9 and, 10), drum 3 (3180911, 12 and 13) and drum 4 (318090914, 15 and 16).

59. EPA inspectors observed a steel box filled with car batteries near the gasoline recovery shed. Several batteries were broken with the lead plates exposed. There were no markings on the steel box. Exhibit 15.

60. In the area of the gasoline recovery shed EPA observed a horizontal red tank inside a box on a concrete pad. There was dirt saturated with what appeared to be oil. EPA collected a sample of the soils in this area (31890917, 18, 23 and 24).

61. In the area between crushed cars and the shredder EPA observed a pool of water with an oil sheen. The soil in front of the water was dark and appeared to be stained with oil. The soils were also saturated with liquids such as automotive oils. EPA collected two soil samples in this area. (31890922 and 23). See Exhibit 16.

62. The samples were analyzed by EPA's Region 5 Chicago Regional Laboratory.

63. According to EPA's analysis the four drums sampled contained benzene concentration above the regulatory level of 0.5 mg/L. Specifically, sample # 3180905 collected from Drum 1 had a benzene concentration of 4.30 mg/L; sample # 3180908 collected from Drum 2 had a benzene concentration of 14.2 mg/L; sample # 3180911 collected from a Drum 3 had a

benzene concentration of 213 mg/L; sample # 3180914 collected from Drum 4 had a benzene concentration of 1,080 mg/L.

64. EPA's analysis of Drum 3 indicates that it contained waste with a flash point below 140 °F. Specifically sample # 3180912 had a flash point of 76.9 °F.

65. On September 15, 2009, EPA sent Respondent another RCRA 3007 information request. On October 6, 2009, Respondent submitted a response and identified the contents of these drums as waste oils from the drain pad. According to the Respondent the waste oil was generated from the crusher area drain pads. They were placed into the drums between March 5, 2009, and March 18, 2009. The drums were then pumped into a tank located on-site. Beaver Oil picked up the contents of the tank and used a Bill of Lading. Beaver Oil picked up 3,000 gallons of "oil" on or about March 21, 2009.

66. The drums EPA sampled contained solid waste as defined by 329 IAC § 3.1-6-1 and 40 C.F.R. §261.2. The total amount of waste shipped off-site was approximately 2,145 gallons.

67. A solid waste is a toxic hazardous waste under RCRA and designated with the hazardous waste code "D018" if it has a benzene concentration greater than 0.5 mg/L. The four drums identified in paragraph 63 above were RCRA hazardous waste as defined by 329 IAC § 3.1-6-1 and 40 C.F.R. § 261.24.

68. A solid waste is a flammable hazardous waste under RCRA and designated with the hazardous waste code "D001" if it has a flash point less than 140F. Drum 3 identified in paragraph 63 above was RCRA flammable hazardous waste as defined by 329 IAC § 3.1-6-1 and 40 C.F.R. § 261.21.

69. The Site is a “facility” as defined by 329 IAC § 3.1-4-1 and 40 C.F.R. § 260.10 since Respondent stored at the Site, for a temporary period of time, the drums of hazardous wastes identified in the preceding paragraph and other similar hazardous wastes.

70. Respondent is, and was at all times relevant to this Complaint, the owner of the business and operated a variety of processes at its facility and thus was an owner or operator of a “facility” as defined by 329 IAC §§ 3.1-4-1 and 3.1-4-1(b), and 40 C.F.R. § 260.10.

71. Respondent is, and was at all times relevant to this Complaint, a “generator” of used oil, solid and hazardous waste as defined in 329 IAC §§ 3.1-4-1, 3.1-6-1 and 13-3-1 and 40 C.F.R. §§ 260.10, 261.2, 261.3, 261.21, 261.24 and 279.1 since its processes produced wastes, including but not limited to, automotive fluids such as engine lubricating oils, gasoline, transmission fluids, anti-freeze, brake fluids and windshield washer fluid.

72. By March 18, 2009, Respondent had not submitted a notification of hazardous waste activity form.

73. On May 4, 2010, Respondent submitted to the Indiana Department of Environmental Management (“IDEM”) a notification of hazardous waste activity form in which it claimed that it was a non-generator of hazardous waste.

74. From at least March 18, 2009, Respondent was a large quantity generator (LQG) of hazardous waste even though it claimed that it did not generate hazardous wastes within the meaning of 329 IAC §§ 3.1-4-1, 3.1-6-1 and 3.1-7-1, [40 C.F.R. §§ 260.10, 261.5(g) and 262.34].

75. From at least March 18, 2009, Respondent was a used oil generator within the meaning of 329 IAC § 13-2, [40 C.F.R. §279.1].

76. From at least March 18, 2009, Respondent was a small quantity handler of universal waste within the meaning of 329 IAC § 3.1-16-1, [40 C.F.R. §273.9].

77. Under 329 IAC §§ 3.1-6-1, 3.1-7-1, 3.1-13-1, 3.1-13-2 and 40 CFR §§ 261.5(g), 262.34(b), 270.1(c) and 270.10, a generator, including a small quantity generator, must apply for and obtain a hazardous waste storage permit if the generator fails to meet the requirements for a permit exemption.

78. Under 329 IAC § 13-2, [40 C.F.R. § 279, Subpart C] Respondent as a used oil generator is subject to special management standards for the handling of used oil.

79. Under 329 IAC § 3.1-16-1, [40 C.F.R. § 273, Subpart B] Respondent as a small quantity handler of batteries is subject to special management standards for the handling of universal waste.

80. Respondent generated and managed hazardous waste at the Facility after November 19, 1980.

81. At all times relevant to this Complaint, the State of Indiana had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at its Facility.

82. At all times relevant to this Complaint, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at its Facility.

83. In addition to the facts alleged above, based on information submitted by the Respondent, EPA has determined that the Respondent did not:

- a. apply for or receive an EPA ID Number;
- b. sample its own waste streams;
- c. conduct hazardous waste or universal waste training as required by RCRA;

- d. ship hazardous waste using the hazardous waste manifests as required by RCRA;
- e. have a contingency plan as required by RCRA; or
- f. document weekly inspections of hazardous waste storage areas.

84. On February 24, 2014, EPA issued a Pre-filing Notice and Opportunity to Confer letter alleging certain violations of RCRA identified as a result of the inspections.

**Count 1: Failure to Determine if a Waste is a Hazardous Waste.**

85. Paragraphs 1 through 84 of this Complaint are incorporated herein as though set forth fully in this paragraph.

86. The regulation at 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.11 require that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste.

87. On March 18, 2009, the EPA inspector observed 39 55-gallon drums in and around the gasoline recovery shed.

88. The Respondent indicated that it mixed the contents of the 39 drums in a tank prior to the wastes being shipped off-site. The Respondent identified the contents of the drums and the tank as waste oils. However, based on EPA March 18, 2009, sampling inspection, at least four of the 39 drums were determined to be hazardous waste. Further, based on Respondents description of the process (dripping fluids from automobiles) for generating the contents of the drums and the sampling results the other 35 drums should have been characterized as hazardous waste. Finally, the contents of the tank became a hazardous waste when Respondent either deposited the contents of all of the drums into it or when the Respondent mixed the contents of the four drums with the 35 drums in the tank.

89. Respondent did not make a correct hazardous waste determination on the liquids contained in the drums and tank as alleged above.

90. Respondent as a result of its actions alleged in this Count 1 failed to comply with the waste determination requirements of 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.11 for the drums and tank identified in this Count 1.

**Count 2: Offering Hazardous Waste, for Transportation,  
without an EPA Identification Number.**

91. Paragraphs 1 through 84 of this Complaint are incorporated herein as though set forth fully in this paragraph.

92. The regulations at 329 IAC §§ 3.1-7-1, 3.1-7-10, 3.1-7-11, 3.1-7-12 and 3.1-7-13 and 40 C.F.R. § 262.12(a) require that a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

93. Respondent received an EPA identification number on August 4, 2010.

94. Respondent offered hazardous waste from the drums and accumulation tank in the GRA as alleged in paragraphs 63-65 on or about March 21, 2009, without having received an EPA identification number. At or about the same time, Respondent offered other shipments of hazardous waste as alleged in paragraph 57 for transportation, without having received an EPA identification number.

95. Respondent's offering hazardous waste for transportation as alleged in the Count 2, without having received an EPA identification number, violated 329 IAC §§ 3.1-7-1, 3.1-7-10, 3.1-7-11, 3.1-7-12 and 3.1-7-13 [40 C.F.R. § 262.12(a)].

**Count 3: Failure to Ship Hazardous Waste on a Required Manifest.**

96. Paragraphs 1 through 84 of this Complaint are incorporated herein as though set forth in this paragraph.

97. The regulations at 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.20(a) require that a generator who transports, or offers for transport, a hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility must prepare a manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in the appendix to this part and must follow all requirements of the manifest.

98. On or about March 21, 2009, Respondent failed to ship the hazardous waste contained in the four sampled drums, the 35 unsampled drums and the accumulation tank on a required manifest (EPA Form 8700-22). At or about the same time, Respondent may have also offered other shipments of hazardous waste as alleged in paragraph 57 for transportation, without having received an EPA identification number.

99. Respondent's failure to ship hazardous waste as alleged in this Count 3 on a required manifest (EPA Form 8700-22), violated 329 IAC § 3.1-7-1 and 40 C.F.R. § 262.20(a)

**Count 4 – Storing Hazardous Waste without a Permit or Interim Status.**

100. Paragraphs 1 through 84 are incorporated by reference as if fully presented in this paragraph.

101. The regulations found at 329 IAC §§ 3.1-1-7 and 13-1, and 40 C.F.R § 270.1(c) require owners and operators of hazardous waste management units to have a permit for the storage of hazardous waste. Section 3005(a) of RCRA,

42 U.S.C. § 6925(a) and the regulations at 40 C.F.R. Part 270, prohibit the treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit.

102. The contents of the 39 drums and the accumulation tank were shipped off-site as non-hazardous waste. Neither the drums nor the accumulation tank were labeled with the words "Hazardous Waste." While on-site these drums and the tank were in storage as that term is defined in 329 IAC §§ 3.1- 4-1 and 40 C.F.R. § 260.10.

103. The area where the 39 drums and the accumulation tank were stored on-site was a hazardous waste management unit as defined by 329 IAC §§ 3.1-1-7 and 3.1-4-1, 40 C.F.R. § 260.10. Respondent's facility, therefore, was a hazardous waste storage facility with a hazardous waste storage unit as defined by 329 IAC §§ 3.1- 4-1 and 40 C.F.R. § 260.10.

104. Respondent owned or operated the equipment and hazardous wastes at its facility and was responsible for the overall operation of the facility and owned the equipment located therein. Respondent was an owner or operator as those terms are defined in 329 IAC §§ 3.1- 4-1 and, 40 C.F.R. § 260.10.

105. Respondent did not have a permit or interim status to operate a hazardous waste storage unit at its facility. Consequently, Respondent was in violation of 329 IAC §§ 3.1-13-1 and 40 C.F.R. § 270.1(c) and Section 3005 of RCRA, 42 U.S.C. §6925.

106. At all times relevant to this complaint, including, but not limited to March 18, 2009, Respondent was a generator of hazardous waste at its facility as that term is defined in 329 IAC §§ 3.1-1-7 and 4-1, 40 C.F.R. § 260.10.

107. Generators storing hazardous waste in containers are required to label the containers with the words "Hazardous Waste," 329 IAC §§ 3.1-6-1 and 3.1-7-1, 40 C.F.R.

§§ 262.34(a)(3), 262.34(d)(3) and 261.5(g)(2). On March 18, 2009, Respondent arranged for the shipment of the contents of the four sampled containers and the accumulation tank containing hazardous waste off-site as non-hazardous waste. Respondent failed to meet the conditions of 329 IAC §§ 3.1-1-6 and 3.1-7-1 and 40 C.F.R. § 262.34(a)(3), 262.34(d)(3) and 261.5(g)(2) and therefore did not qualify for a permit exemption.

108. Generators of hazardous waste in containers are required to comply with 40 C.F.R. 265, Part I, "Use and Management of Containers," 329 IAC §§ 3.1-6-1 and 3.1-7-1 and 40 C.F.R. §§ 262.34(a)(1) 262.34(d)(3) and 261.5(g)(2). Facilities are required to conduct weekly inspections of the areas where the containers were stored pursuant to 40 C.F.R. § 265.174.

109. During the March 18, 2009, inspection and subsequently, Respondent did not produce any records that it conducted weekly inspections as required by 40 C.F.R. § 265.174. Consequently, Respondent did not conduct the weekly inspections as required by 40 C.F.R. § 265.174. Respondent failed to meet the conditions of 329 IAC §§ 3.1-6-1 and 3.1-7-1 and 40 C.F.R. §§ 262.34(a)(1), 262.34(d)(3) and 261.5(g)(2) and therefore did not qualify for a permit exemption.

110. 329 IAC §§ 3.1-7-1, and, 40 C.F.R. §§ 262.34(a)(4) and 265.51 and 265.53 require a generator to have a contingency plan. Respondent did not have a contingency plan. Consequently, when it shipped the contents of the four drums and accumulation tanks off-site after March 18, 2009, Respondent did not meet the requirements of 329 IAC §§ 3.1-7-1 and 40 C.F.R. §§ 262.34(a)(4), 265.51 and 265.53 and therefore did not qualify for a permit exemption.

111. 329 IAC §§ 3.17-1 and 10-1 and 40 C.F.R. §§ 262.34(a)(4), 265.16 (a), (b) and (c) require a generator to provide initial and annual training for its employees with duties involving hazardous waste management that teaches them to perform their duties in a way that ensures compliance with 40 C.F.R. Part 265. Respondent did not conduct this training. Consequently, Respondent failed to meet the conditions of 329 IAC §§ 3.1-7-1 and 10-1, 40 C.F.R. §§ 262.34(a)(4) and 265.16(a)-(c) and did not qualify for a permit exemption.

112. 329 IAC §§ 3.1-7-1, 40 C.F.R. §§ 265.16(d)(1) require a generator to maintain documentation that the training required by this section has been completed and a document that lists the job title for each position related to hazardous waste management and the name of the person filling that position. Respondent did not have this documentation. Consequently, Respondent failed to meet the conditions of 329 IAC §§ 3.1-7-1, 40 C.F.R. §§ 262.34(a)(4) and 265.16(d)(1) and did not qualify for a permit exemption.

113. As alleged in paragraphs 1 through 84 above Respondent failed to comply with the conditions necessary for a generator to qualify for an exemption from the hazardous waste storage permit requirements under 35 IAC §§ 3.1-6-1 and 3.1-7-1 and 10-1, 40 C.F.R. §§ 261.5(g) and 262.34. Respondent did not and does not have a permit for the storage of hazardous waste. Consequently, Respondent did not meet the requirements of 329 IAC §§ 3.16-1 and 3.1-7-1 and 10-1; 40 C.F.R. §§ 261.5(g)(2) and 262.34(a) and did not qualify for a permit exemption. Consequently, Respondent violated 329 IAC §§ 3.1-13-1, 40 C.F.R. § 270.1(c).

**Count 5 – Storing Used Oil in Unmarked Containers.**

114. Paragraphs 1 through 84 are incorporated by reference as if fully presented in this paragraph.

115. The regulations at 329 IAC § 3.13-4-3(d) [40 CFR 40 CFR § 279.22(c)(1)] require used oil stored in containers and tanks must be marked clearly with the words “Used Oil”.

116. On March 18, 2009, the EPA inspectors observed several 55-gallon drums containing used oil that were not marked with the words, “Used Oil”. The drums included but were not limited to the 39 drums and accumulation tank located near the gasoline recovery shed that Respondent asserts contained used oil. The inspectors also observed a box containing liquids with an oil sheen (paragraph 56) that was not labeled.

117. Respondent’s failure to store used oil in containers marked with the words “Used Oil” violated IAC § 3.13-4-3(d) [40 CFR 40 CFR § 279.22(c)(1)].

**Count 6 – Respondent Failed to Contain Used Oil Releases.**

118. Paragraphs 1 through 84 are incorporated by reference as if fully presented in this paragraph.

119. The regulations at 329 IAC § 3.13-4-3(e)(1)-(5) [40 CFR 40 CFR §§ 279.22(d)(1) –(4)] require a person who detects release of used oil to the environment, to stop the release, contain the released used oil, clean up and properly manage the released used oil and other materials, and, if necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

120. At the time of the March 18, 2009, inspection EPA inspectors observed releases of used oil on the ground throughout the facility including those areas described in paragraphs 55, 60 and 61. It appeared that these oils had been there for a while and had not been cleaned-up or properly managed.

121. At the time of the March 18, 2009, inspection EPA inspectors observed liquids in boxes identified in paragraphs 56 and 57.

122. Respondent's failure to stop the release, contain the released used oil, clean up and properly manage the released used oil and other materials, and, if necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them violated 329 IAC § 3.13-4-3(e)(1)-(5) [40 CFR 40 CFR §§ 279.22(d)(1)-(4)].

**Count 7 – Failure to Comply with the Standards for  
Small Quantity Handlers of Universal Waste.**

123. Paragraphs 1 through 84 are incorporated by reference as if fully presented in this paragraph.

124. 329 IAC § 3.1-16-1, 40 C.F.R. § 273.13(a) requires a small quantity handler of universal waste to manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment.

125. At the time of the March 18, 2009, inspection EPA observed broken batteries in a box located on-site. The box did not have a lid on it.

126. Respondent's handling of the batteries as alleged in this Count 7 did not prevent the release to the environment of any universal waste component from the batteries and therefore was a violation 329 IAC § 3.1-16-1, 40 C.F.R. § 273.13(a).

127. 329 IAC § 3.1-16-1, 40 C.F.R. §273.15(c) requires a small quantity handler of universal waste to mark the containers with the accumulation start date or maintain an inventory system capable of determining when the accumulation was started.

128. At the time of the March 18, 2009, inspection the container holding the batteries as alleged in paragraph 59 was not marked and the Respondent did not have an inventory system that met the requirements of 329 IAC § 3.1-16-1, 40 C.F.R. §273.15(c). Consequently, the Respondent was in violation of 329 IAC § 3.1-16-1, 40 C.F.R. §273.15(c).

129. 329 IAC § 3.1-16-1, 40 C.F.R. §273.16 requires a small quantity handler of universal waste to provide all employees who handle or manage the universal waste to have training.

130. At the time of the March 18, 2009, inspection Respondent did not have a training program which met the requirements of 329 IAC § 3.1-16-1, 40 C.F.R. §273.16. Consequently, Respondent was in violation of 329 IAC § 3.1-16-1, 40 C.F.R. §273.16.

#### **Civil Penalty**

The Complainant proposes, subject to the receipt and evaluation of further relevant information from Respondent, that the Administrator assesses a civil penalty of \$263,375 for the violations alleged in this Complaint, as further explained in Attachment A, "Penalty Summary Sheet."

Complainant determined the proposed civil penalty according to RCRA Section 3008, 42 U.S.C. § 6928. In assessing a civil penalty, the Administrator of U.S. EPA must consider the seriousness of the violation and any good faith efforts to comply with applicable requirements. *See*, Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). Complainant has considered the facts

and circumstances of this case with specific reference to U.S. EPA's 2003 RCRA Civil Penalty Policy. A copy of the penalty policy is available upon request. This policy provides a consistent method of applying the statutory penalty factors to this case.

### **COMPLIANCE ORDER**

Based on the foregoing, Respondent is hereby ordered, pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and § 22.37(b) of the Consolidated Rules, 40 C.F.R. § 22.37(b) to comply with the following requirements immediately upon the effective date of this Order:

1. Respondent shall maintain compliance with each of the regulations cited in this Complaint and Compliance Order. Respondent shall certify its compliance with each of these regulations within thirty (30) days of the date of the filing of this Complaint and Compliance Order by notifying EPA in writing.
2. If Respondent has not taken or completed compliance with each of the regulations cited in this Complaint, Respondent shall notify EPA of the failure, its reasons for the failure, and the proposed date for compliance within thirty (30) days of the date of the filing of this Complaint and Compliance Order.

### **Rules Governing this Proceeding**

The Consolidated Rules, 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty and order compliance. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

### **Filing and Service of Documents**

Respondent must file with the U.S. EPA Regional Hearing Clerk the original and one

copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-13J)  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, Illinois 60604

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules, 40 C.F.R. §22.5. Complainant has authorized Richard J. Clarizio to receive any Answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Mr. Clarizio at (312) 886-0559. His address is:

Richard J. Clarizio (C-14J)  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, Illinois 60604

#### **Terms of Payment**

Respondent may resolve this proceeding at any time by paying the proposed penalty by sending a certified or cashier's check payable to the "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

Respondent must include the case name, docket number and the billing document number on the check and in the letter transmitting the check. Respondent must simultaneously send copies of the check and transmittal letter to the Regional Hearing Clerk and Richard J. Clarizio at the addresses given above, and to:

Spiros Bourgikos (LR-8J)  
Land and Chemicals Division  
RCRA Branch  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, Illinois 60604

**Answer and Opportunity to Request a Hearing**

If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within thirty (30) days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted in accordance with the Consolidated Rules.

In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address specified above.

Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

Respondent's Answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing.

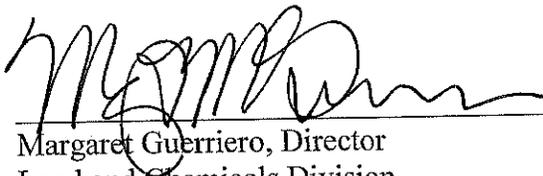
If Respondent does not file a written Answer within 30 calendar days after receiving this Complaint, a default order may be issued, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order, without further proceedings, 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

#### **Settlement Conference**

Whether or not Respondent requests a hearing, Respondent may request an informal conference to discuss the facts alleged in the Complaint and to discuss settlement. To request an informal settlement conference, Respondent may contact Spiros Bourgikos at (312) 886-6862.

Respondent's request for an informal settlement conference will not extend the 30-day period for filing a written Answer to this Complaint. Respondent may simultaneously pursue both an informal settlement conference and the adjudicatory hearing process. Complainant encourages all parties against whom it proposes to assess a civil penalty to pursue settlement through an informal conference. Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

3/17/2014  
Date

  
Margaret Guerriero, Director  
Land and Chemicals Division



**Complaint and Final Order  
In the Matter of: Summit, Inc.**

**DOCKET NO:** RCRA-05-2014-0006

**CERTIFICATE OF SERVICE**

I hereby certify that today I filed the original of this Complaint and Compliance Order (Complaint) docket number RCRA-05-2014-0006 the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by Federal Express, addressed as follows :

Mr. Mr. Coulopoulos  
Summit, Inc.  
6901 West Chicago Avenue  
Gary, Indiana 46406

I certify that I delivered a correct copy of the Complaint by intra-office mail, addressed as follows:

Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

On the 17<sup>th</sup> day of March, 2014

  
Spiros Bourgikos  
Environmental Engineer  
United States Environmental Protection Agency  
Region V  
Land and Chemicals Division LM-8J  
77 W. Jackson Blvd, Chicago, IL 60604-3590



**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 1**



To see all the details that are visible on the screen, use the "Print" link next to the map.





To see all the details that are visible on the screen, use the "Print" link next to the map.

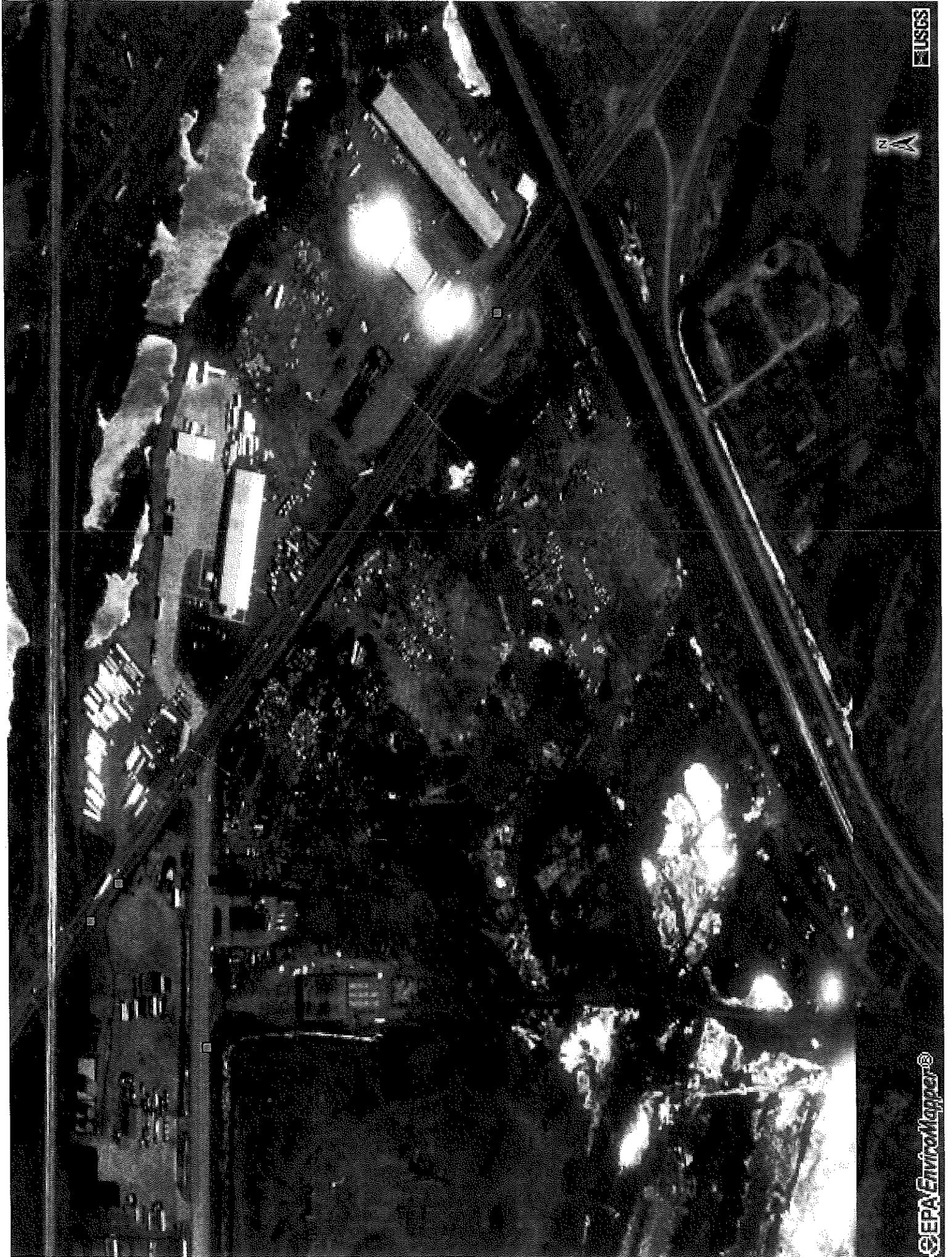




To see all the details that are visible on the screen, use the "Print" link next to the map.



Imagery ©2014 Google, Map data ©2014 Google

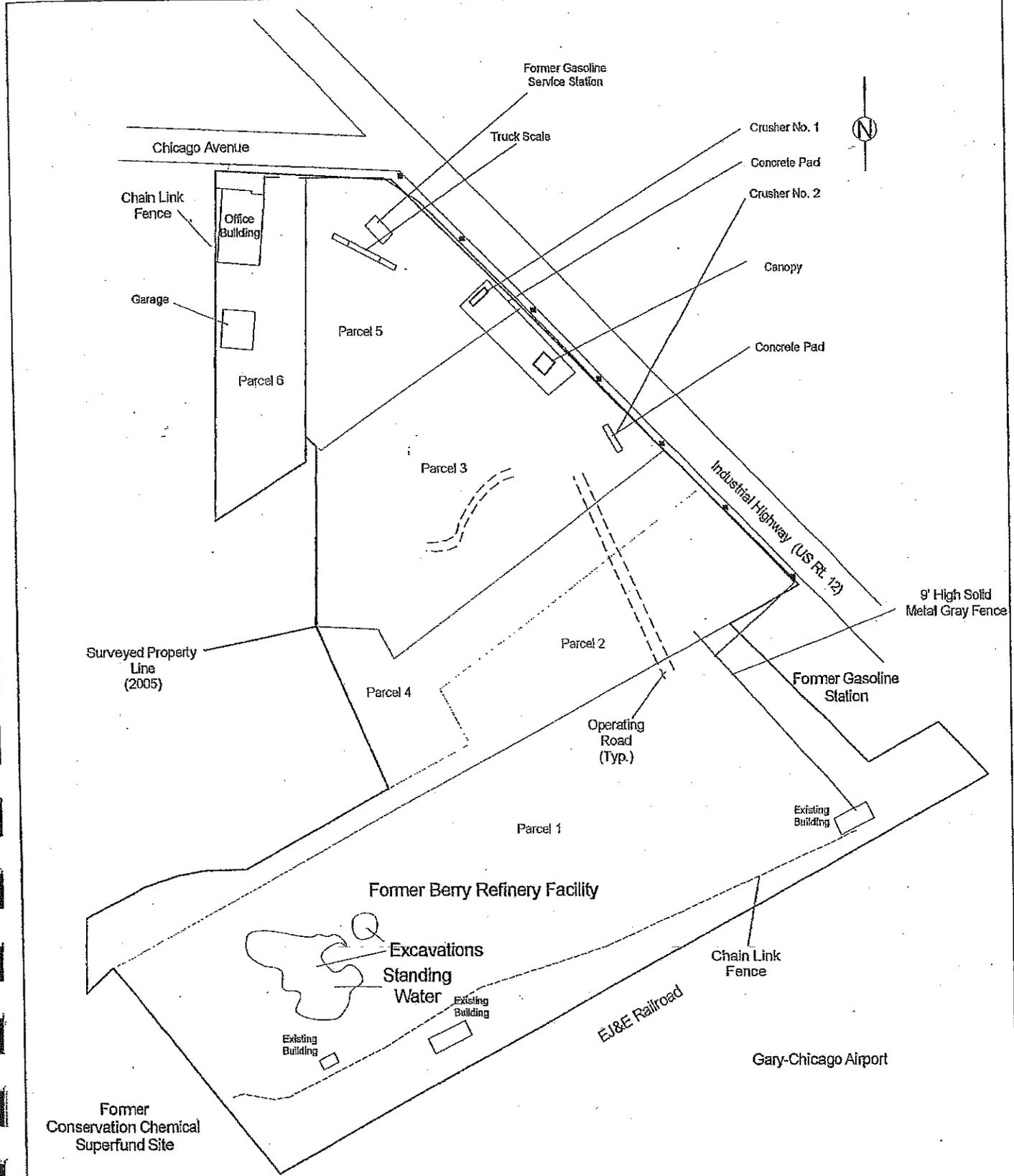


USA

EPA EnviroMapper®

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 2**



**Legend**  
 ■ Utility Pole

<h1>Site Map</h1> <p>Summit, Inc.          6901 West Chicago Avenue          Gary, Indiana 46406</p>		Project Number: 23.30507.6001	Drn By: DSG
		Drawing File: 30507 Site Map	Ckd By:
Date: 12/4/06	Scale: 1" = 250'	App'd By:	
		Figure:	

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 3**

Photograph Log  
Summit, Inc.  
6901 West Chicago Avenue  
Gary, Indiana 46406



Photograph No.1

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: One of the two car crushers in operation at the Summit scrap yard. Once the first car is crushed, the loader places a second car in the crusher.



Photograph No.8

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Second car crusher. The base of the crusher consists of a pan that collects fluid drained from the cars during crushing.

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 4**



Date: April 2, 2008

Location: Summit Inc., 6901 W. Chicago Avenue, Gary, Indiana 46406

Photographer: Sue Rodenbeck Brauer, Region 5 RCRA Used Oil Expert

Camera: Konica Autoreflex TC 35 mm, personal property of the photographer

Film: Kodak Max 800 ASA

Compact Disk Image Number: 853659-R1-029-13\_011

Description of photograph: This photograph was taken facing southwest while standing between the crusher pad and the Summit fence parallel to Industrial Highway. Mr. Green identified this metal unit as an oil water separator during the inspection. Note the pipe to the oil water separator through the crusher pad curb (top right of metal box) and the pipe releasing used oil to the environment on the left side of the separator.

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 5**



Date: April 2, 2008

Location: Summit Inc., 6901 W. Chicago Avenue, Gary, Indiana 46406

Camera: Konica Autoreflex TC 35 mm, personal property of the photographer

Film: Kodak Max 800 ASA

Compact Disk Image Number: 853659-R1-029-13\_010

Photographer: Sue Rodenbeck Brauer, Region 5 RCRA Used Oil Expert

Description of photograph: This photograph was taken facing northeast. The fence behind the yellow-orange crusher is parallel to Industrial Highway. Note the broken curbing on the crusher pad beneath the rear bumper of the car to the left. Note fresh oil dry and oil staining on the crusher pad floor. The bucket is not labeled "used oil."



Photograph No.2

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Unmarked five gallon bucket collecting fluids from cars being crushed in the crusher

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 6**



Date: April 2, 2008

Location: Summit Inc., 6901 W. Chicago Avenue, Gary, Indiana 46406

Photographer: Sue Rodenbeck Brauer, Region 5 RCRA Used Oil Expert

Camera: Konica Autoreflex TC 35 mm, personal property of the photographer

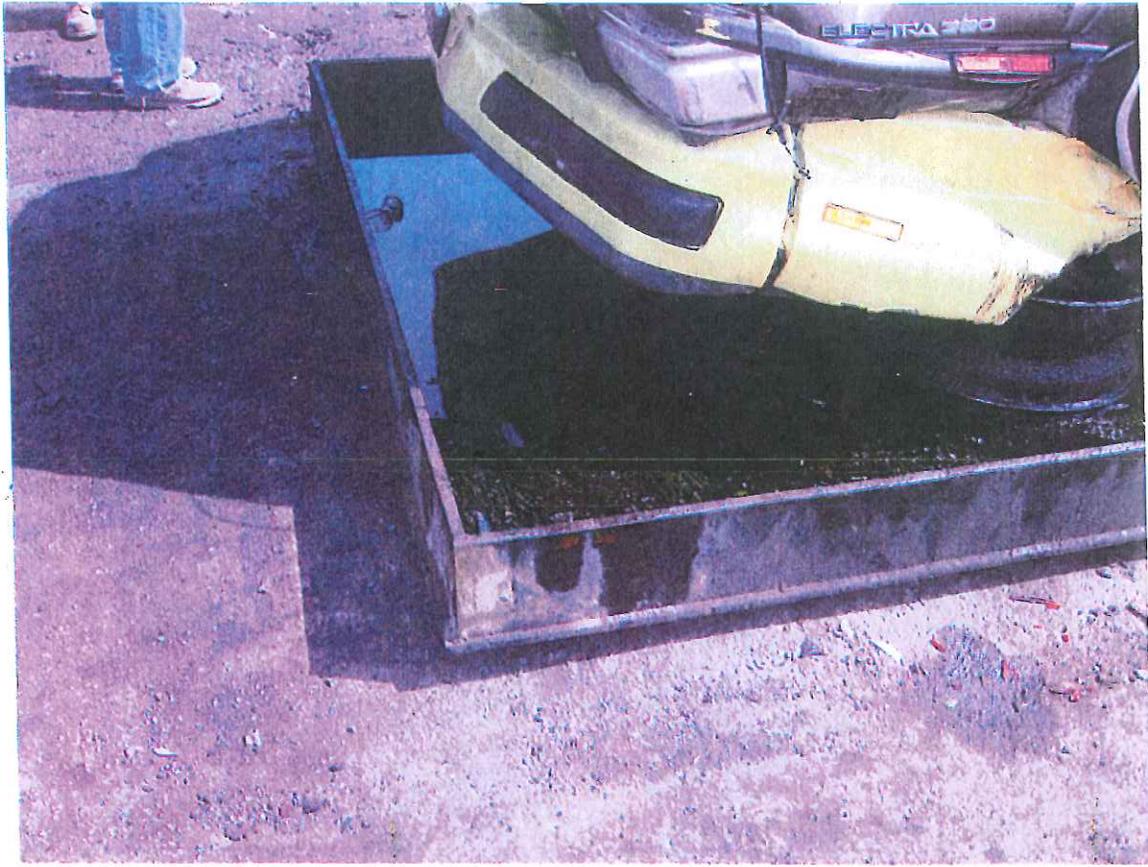
Film: Kodak Max 800 ASA

Compact Disk Image Number: 853659-R1-029-13\_016

Description of photograph: This photograph was taken looking northwest. The tires are piled between the crusher pad and the Summit Inc fence alongside Industrial Highway. The pooled water has a greenish tinge, as if it is diluted from the liquid in the steel totes (refer to photos 13 and 14) or from fluorescent green antifreeze/coolant. The shadow of the second crusher observed during the inspection is to the left side. Drums of used oil are in a metal tote under the blue tarp weighted down with tires (left side, to the back). These drums had the original product label and were not labeled "used oil."

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 7**

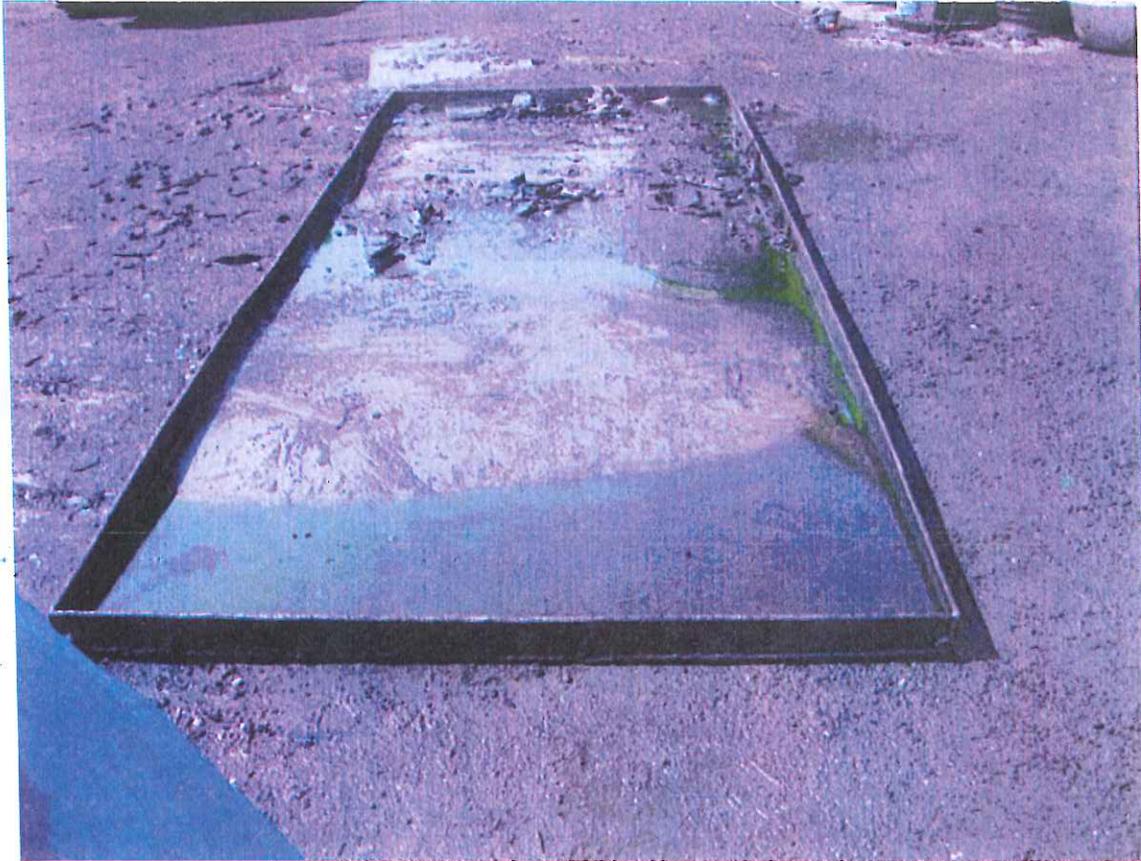


Photograph No.3

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Cars placed on a metal pan where car fluids are drained into.



Photograph No.4

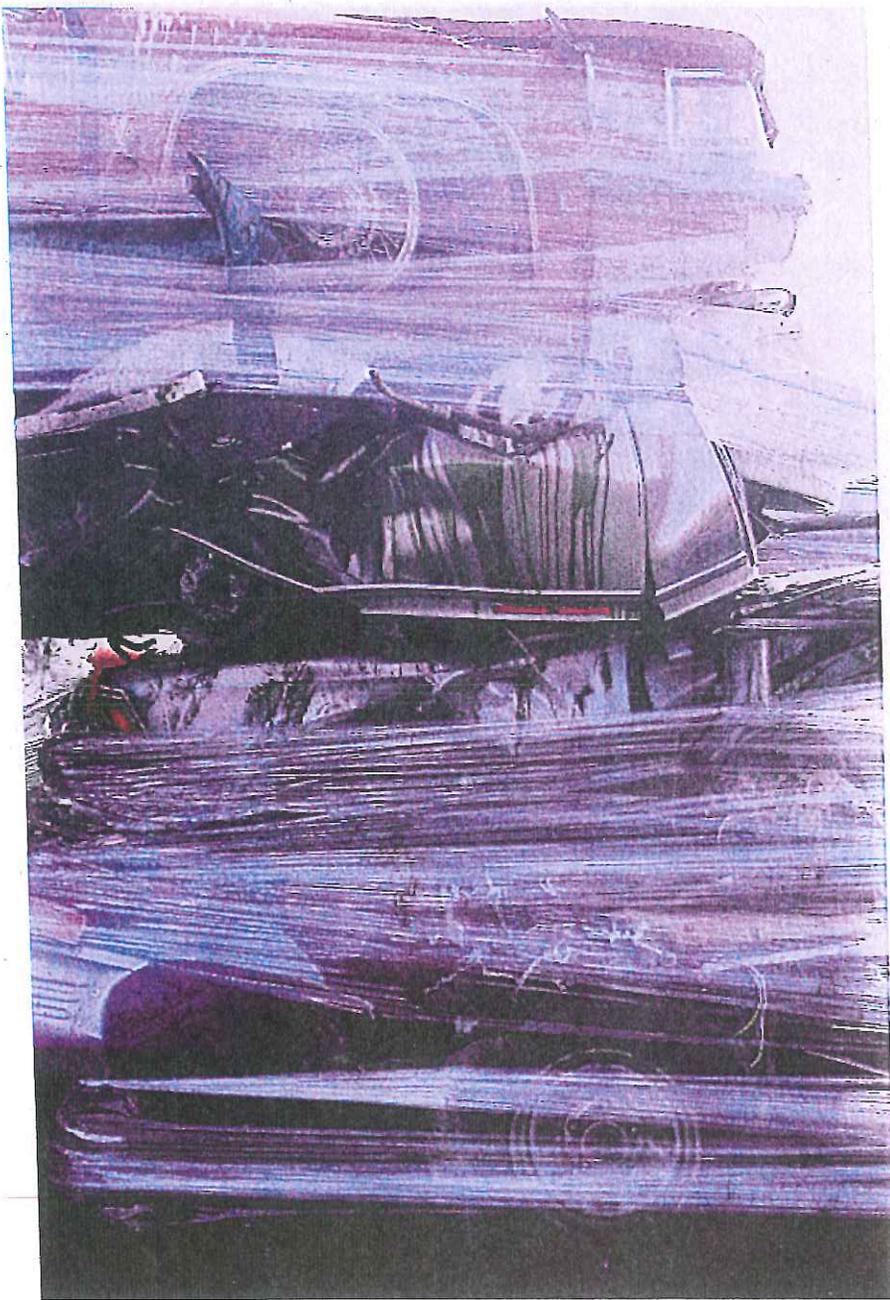
Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Metal pan used to collect fluids from crushed cars. Liquid appears to be a mixture of engine oil and antifreeze.

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 8**



Date: April 2, 2008

Location: Summit Inc., 6901 W. Chicago Avenue, Gary, Indiana 46406

Photographer: Sue Rodenbeck Brauer, Region 5 RCRA Used Oil Expert

Camera: Konica Autoreflex TC 35 mm, personal property of the photographer

Film: Kodak Max 800 ASA

Compact Disk Image Number: 853659-R1-029-13\_018

Description of photograph: Southwest of the crusher pad, hundreds of cars are stacked. The yard is not paved, and drips of used oil form trails. Oil dry had been applied to some such drips. The middle car in this stack exemplifies the need to drain all fluids before crushing the cars. Used oil from the top car has run down the side of the middle car.



Photograph No.12

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Crushed cars rapped in plastic placed on top wooden pallets. The pallets appear to be saturated with oil.



Photograph No.13

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Ground underneath crushed cars appears to be saturated with oil.

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**In the Matter of: Summit Inc.**  
**Complaint**

**Exhibit 9**



Date: April 2, 2008

Location: Summit Inc., 6901 W. Chicago Avenue, Gary, Indiana 46406

Photographer: Sue Rodenbeck Brauer, Region 5 RCRA Used Oil Expert

Camera: Konica Autoreflex TC 35 mm, personal property of the photographer

Film: Kodak Max 800 ASA

Compact Disk Image Number: 853659-R1-029-13\_012

Description of photograph: This photograph was taken facing northeast. I was standing on the crusher pad under a three-sided shed, southeast of the first crusher in the first photograph (853659-R1-029-13\_010) and northwest of the oil water separator (photograph 853659-R1-029-13\_011). At the top of the picture is a raised basin that collects gasoline when automobile gasoline tanks are impaled on a spike. The green tank in the background receives the drained gasoline through a fitting and hose (behind the rear leg of the cradle or stand). Note the DOT 1993 placard and tank secondary containment. The hose connection to the basin fitting had a fast drip, not quite a steady stream, and I think at least two drops are visible in this picture: one drop is just above the bottom of the picture to the right of the back leg and the other is directly above it in front of the green tank slightly above the hose bend to the right. The blue tarp visible beneath the shed wall (bottom right) is the blue tarp in photo 853659-R1-029-13\_013. The gasoline is picked up by Beaver Oil Company.

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 10**



Photograph No.5

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Plastic tote containing car batteries.

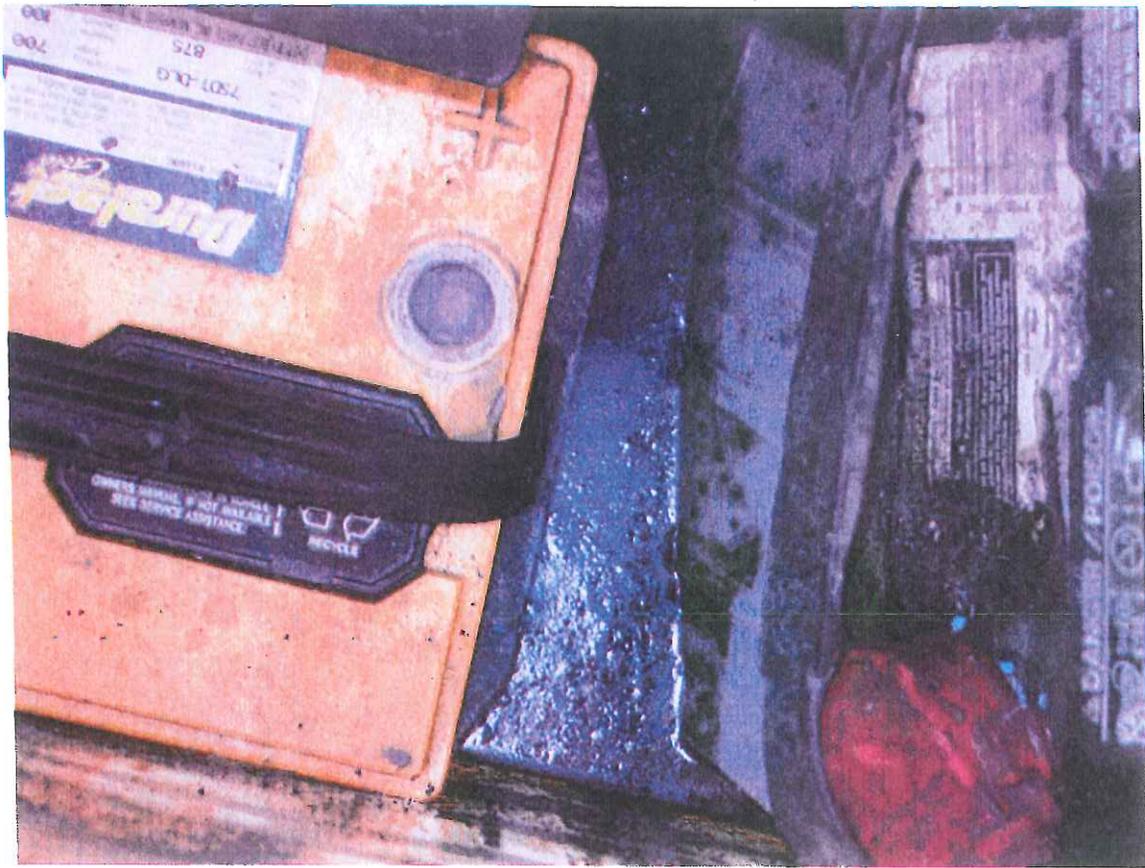


Photograph No.6

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Inside of tote shown in Photograph No. 5. One of the two car crushers in operation at the Summit scrap yard. Once the first car is crushed, the loader places a second car in the crusher.



Photograph No.6

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Inside of tote shown in Photograph No. 5. The tote was one third full with some type of liquid.



Photograph No.9

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Second tote containing car batteries.



Photograph No.10

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Bottom of tote shown in Photograph No. 9 was equipped with a two inch opening.



Photograph No.11

Date: April 2, 2008

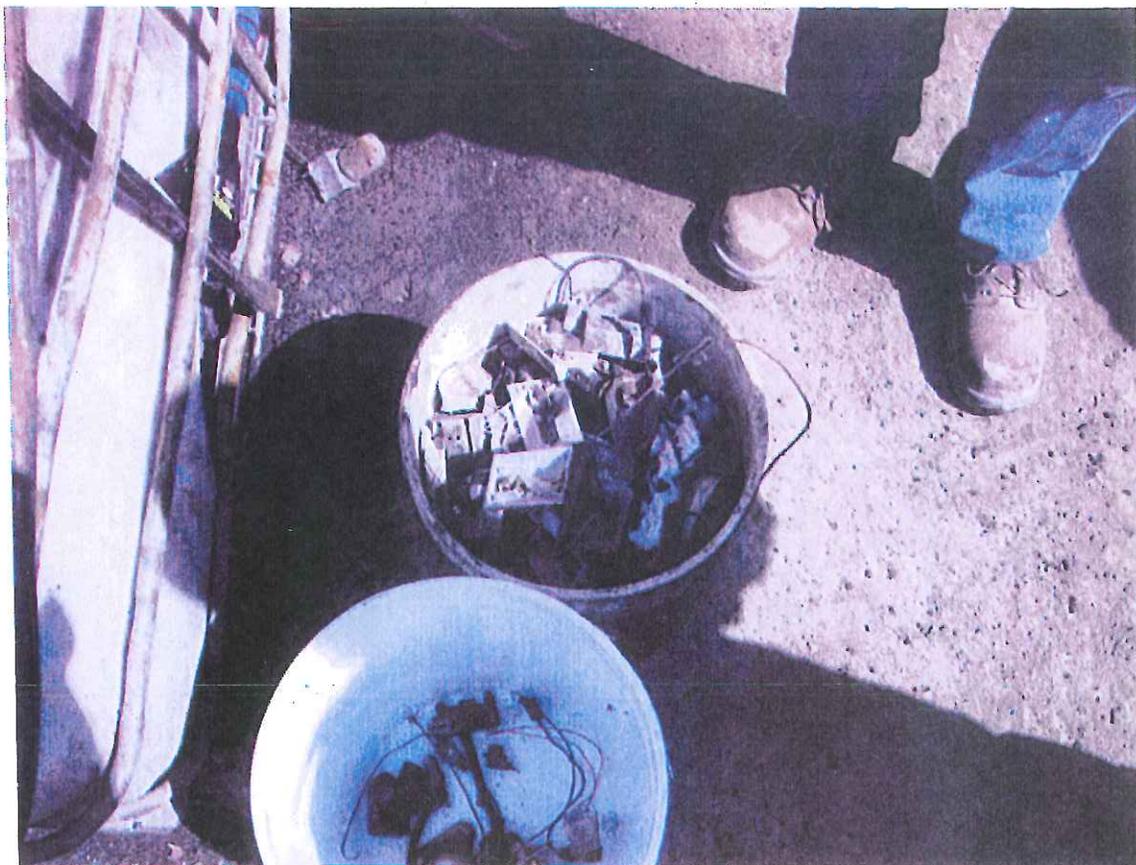
Site: Summit, Inc, 386901 West Chicago Avenue, Gary, IN 46406

Description: Back of a pickup truck storing car batteries. At least two of the batteries appear to be broken.

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**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 11**



Photograph No.7

Date: April 2, 2008

Site: Summit, Inc., 386901 West Chicago Avenue, Gary, IN 46406

Description: Two five gallon buckets containing mercury switches. The buckets were not marked.

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**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 12**



Date: April 2, 2008

Location: Summit Inc., 6901 W. Chicago Avenue, Gary, Indiana 46406

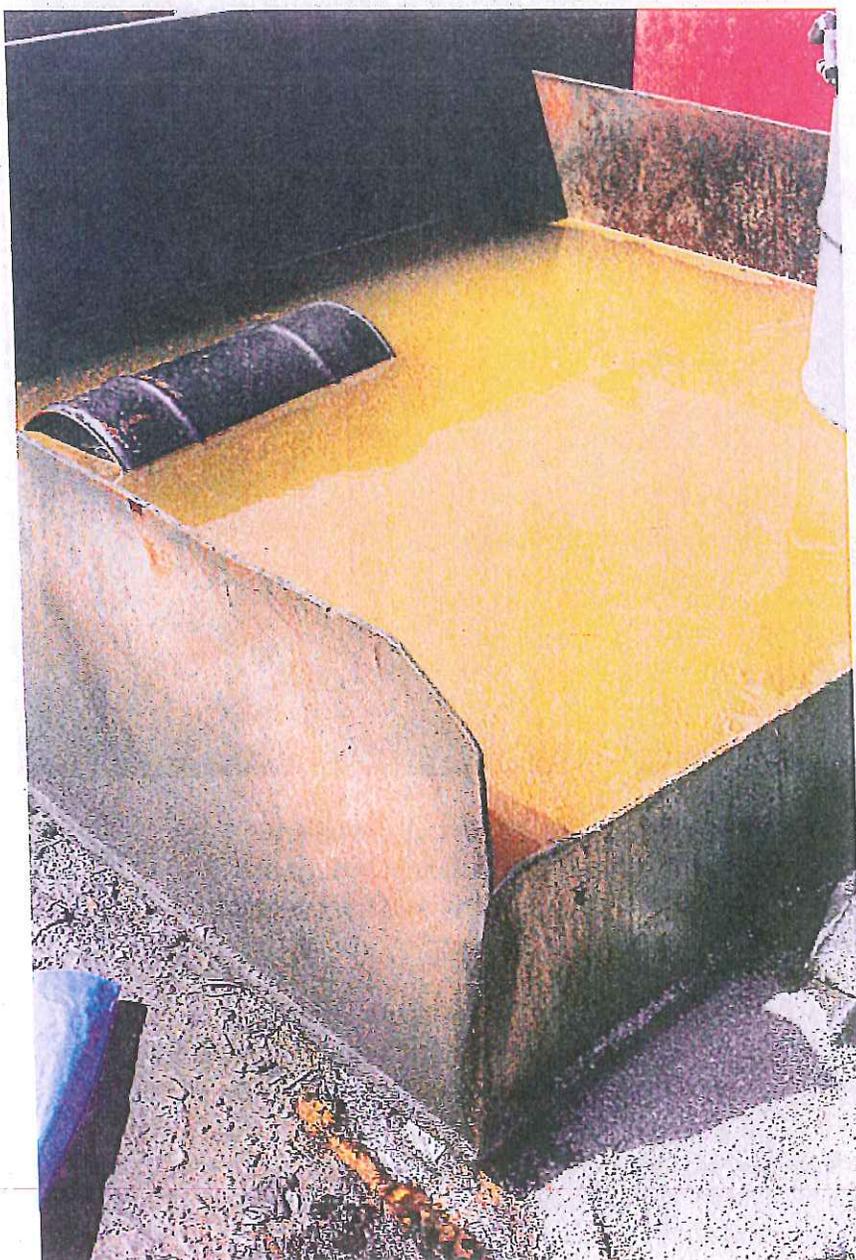
Photographer: Sue Rodenbeck Brauer, Region 5 RCRA Used Oil Expert

Camera: Konica Autoreflex TC 35 mm, personal property of the photographer

Film: Kodak Max 800 ASA

Compact Disk Image Number: 853659-R1-029-13\_013

Description of photograph: This photograph was taken facing west with my back to the fence along Industrial Highway and the oil water separator. The metal containers hold drums containing wastewater according to Steve, the Beaver Oil Company truck driver. The truck at the top left of the picture is a one compartment Beaver Oil Company truck, and Steve had pumped used oil from the drums to the left of this picture. The nineteen used oil drums remaining to be emptied are between the truck and the metal totes. This shows the truck backed up onto the pad in order to pump out the drums. Ken Zolnierczyk and Dorel Hunt are standing in front of the stacked cars in the background.



Date: April 2, 2008

Location: Summit Inc., 6901 W. Chicago Avenue, Gary, Indiana 46406

Photographer: Sue Rodenbeck Brauer, Region 5 RCRA Used Oil Expert

Camera: Konica Autoreflex TC 35 mm, personal property of the photographer

Film: Kodak Max 800 ASA

Compact Disk Image Number: 853659-R1-029-13\_014

Description of photograph: Steve, the Beaver Oil Company truck driver described the material in this metal tote as wastewater. Note the fresh oil dry between this tote and the northeast edge of the crusher pad.



Date: April 2, 2008

Location: Summit Inc., 6901 W. Chicago Avenue, Gary, Indiana 46406

Photographer: Sue Rodenbeck Brauer, Region 5 RCRA Used Oil Expert

Camera: Konica Autoreflex TC 35 mm, personal property of the photographer

Film: Kodak Max 800 ASA

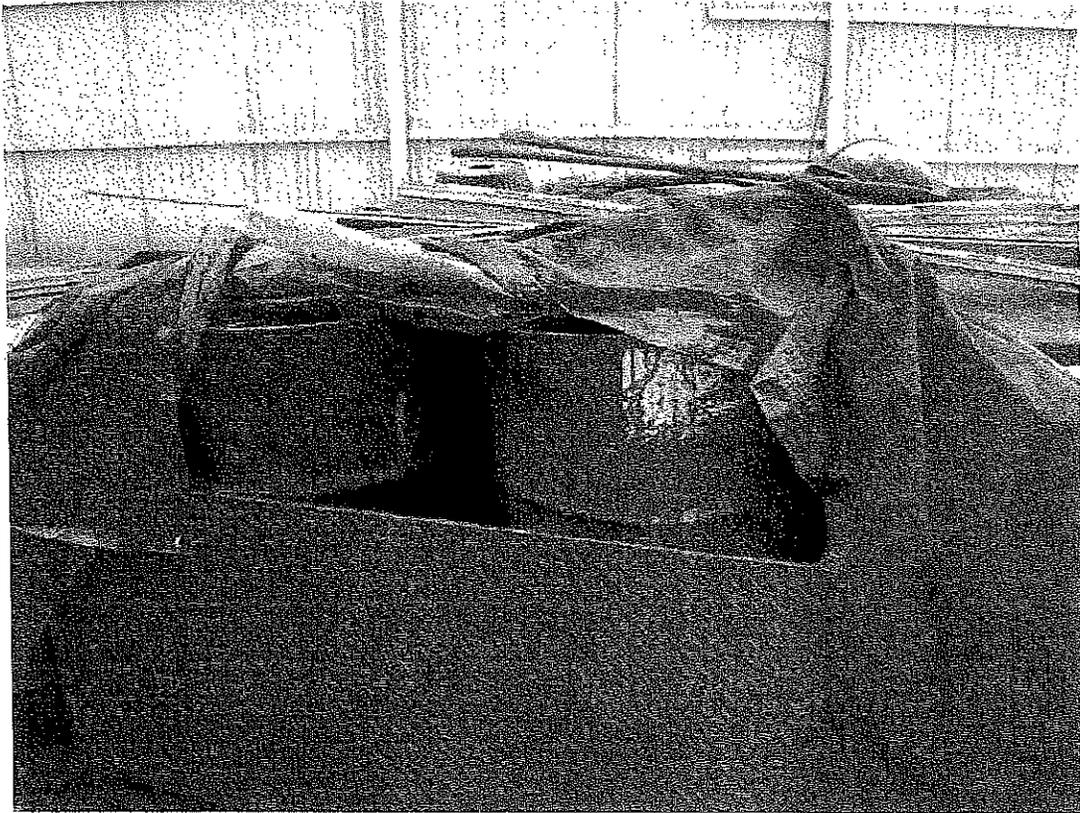
Compact Disk Image Number: 853659-R1-029-13\_015

Description of photograph: As Steve, the Beaver Oil Company driver pumps the drums empty, he moves them to the left of this picture, leaving drum impressions in the oil and dirt on the crusher pad. Note the absence of container labeling.

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**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 13**

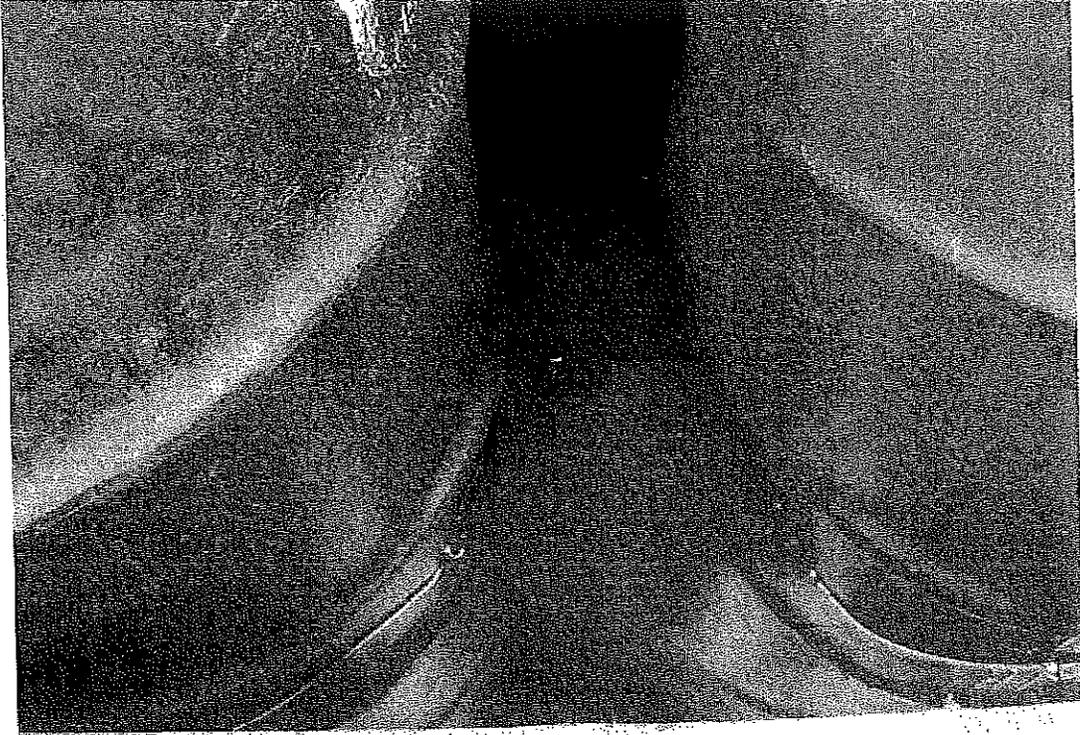


Photograph No. 1

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Steel Box containing several drums of some type of liquid



Photograph No. 2

Date: March 18, 2009

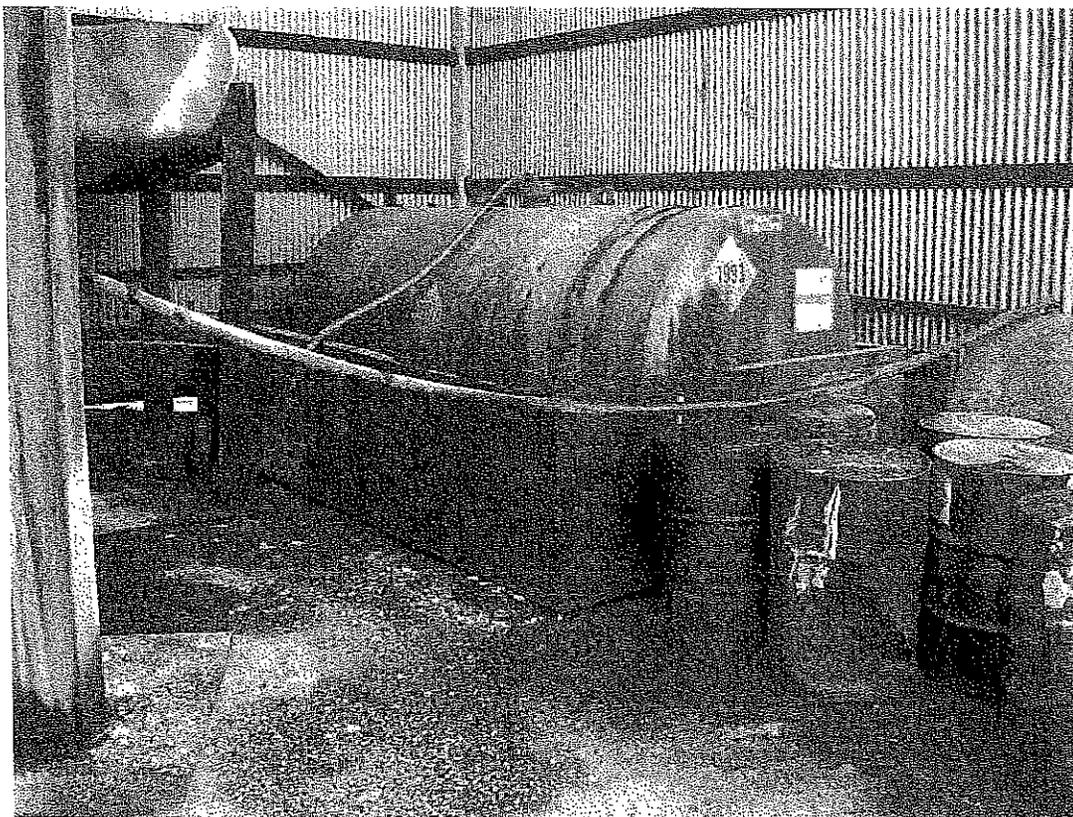
Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Steel box half full with brownish liquid

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**In the Matter of: Summit Inc.**  
**Complaint**

**Exhibit 14**



Photograph No. 5

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Gasoline storage tank inside a metal box acting as a secondary containment inside the gasoline recovery shed.



Photograph No. 6

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Reddish liquid with metal debris inside the steel box shown in photograph No. 5.

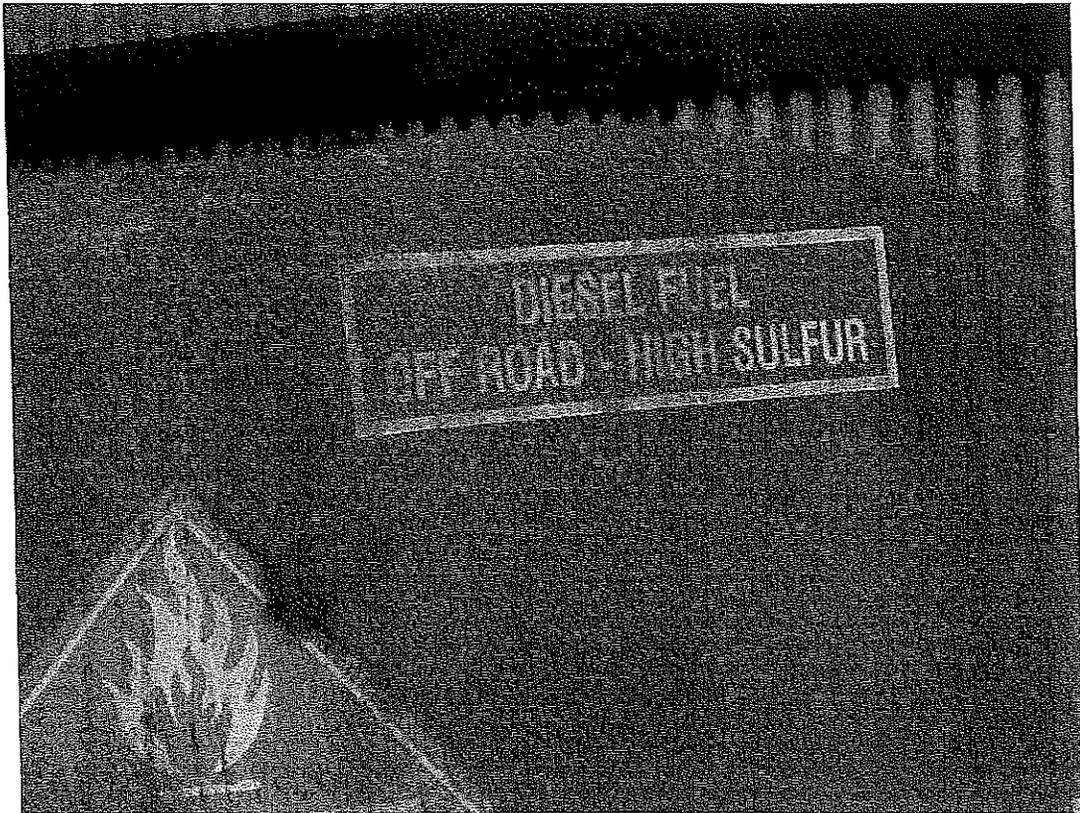


Photograph No. 7

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: More metal debris inside the steel box shown in photograph No. 5.



Photograph No. 8

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Label on the green gasoline storage tank in the gasoline recovery shed.

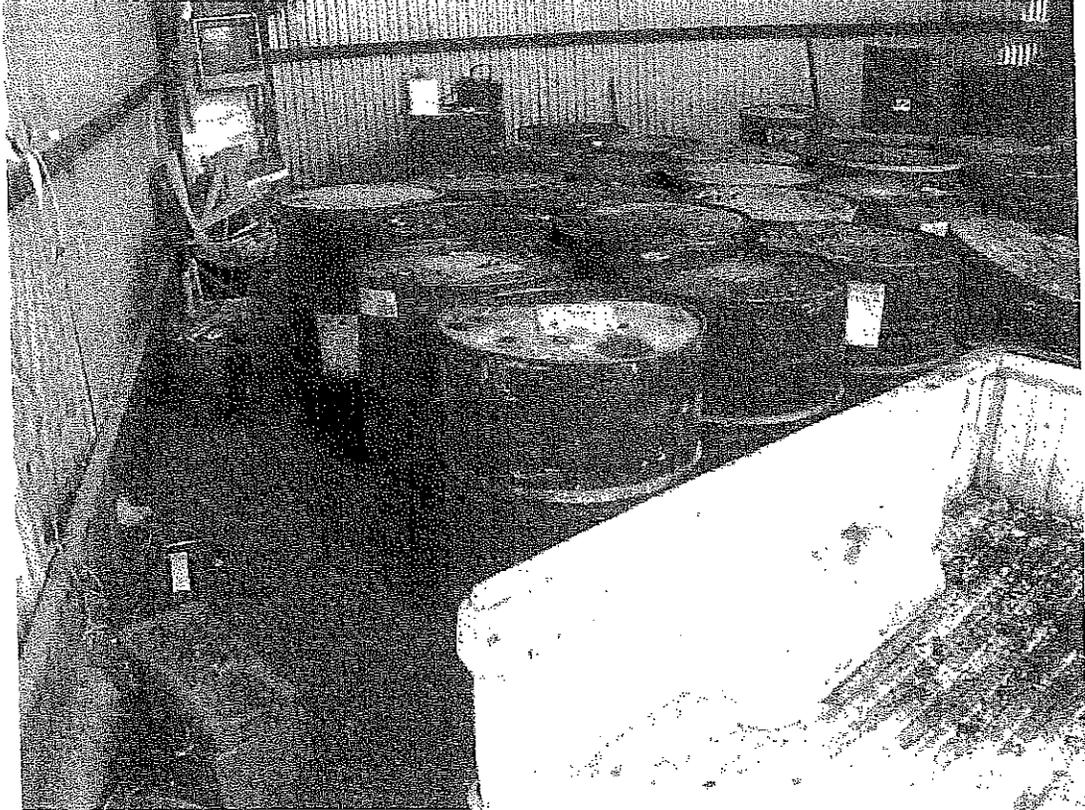


Photograph No. 9

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Drums of what appeared to be used oil stored against the east wall of the gasoline recovery shed.



Photograph No. 10

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: 55-gallon drums of what appeared to be used oil, stored adjacent to the west wall of the gasoline recovery shed.



Photograph No. 13

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Drum of what appeared to be used oil. The samples numbered 03180908, 03180909 and 03180910 were withdrawn from this drum.

**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 15**



Photograph No. 19

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Batteries stored in a steel box west of the gasoline recovery shed.

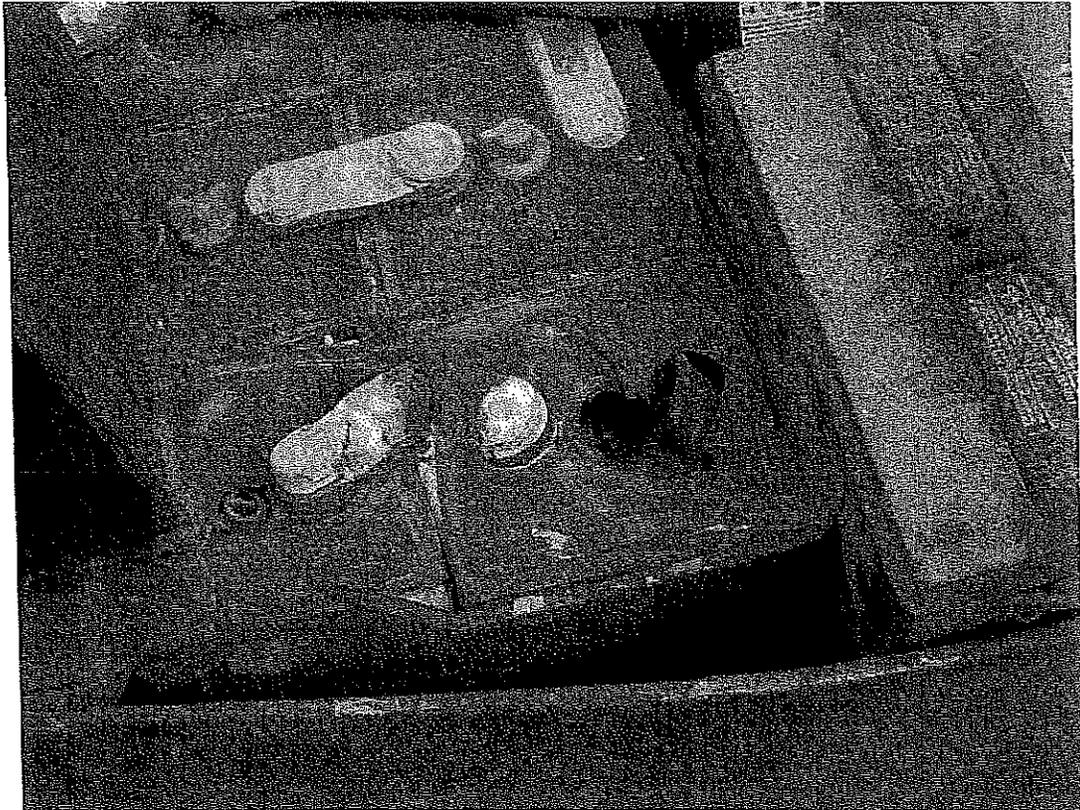


Photograph No. 20

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Batteries stored in a steel box west of the gasoline recovery shed.

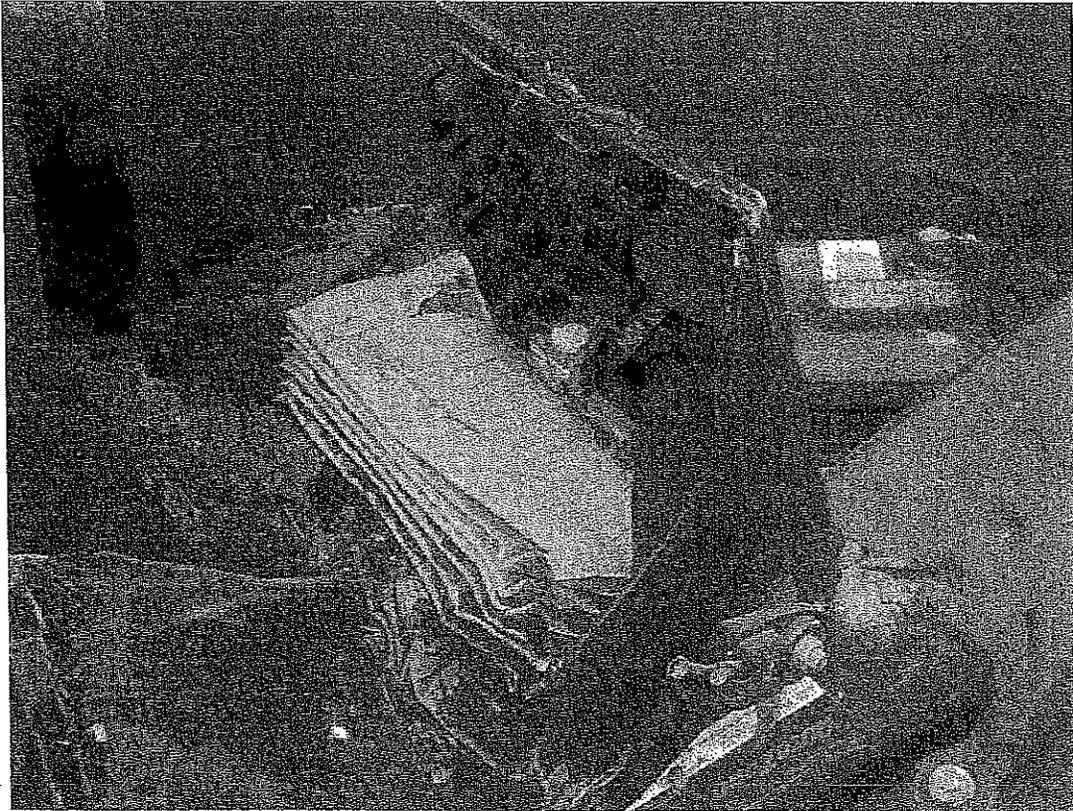


Photograph No. 21

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: A broken car battery stored in a steel box west of the gasoline recovery shed.



Photograph No. 22

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: A broken car battery stored in a steel box west of the gasoline recovery shed.

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**In the Matter of: Summit Inc.  
Complaint**

**Exhibit 16**



Photograph No. 25

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Aisle of crushed cars east of car shredder.



Photograph No. 26

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Aisle of crushed cars east of car shredder. This point of view has the car shredder behind us.



Photograph No. 27

Date: March 18, 2009

Site: Summit, Inc., 6901 West Chicago Ave, Gary, IN 45406

Description: Samples numbered 03190919, 03190920 and 03190921.

Attachment A  
**PENALTY SUMMARY SHEET**  
 Summit, Inc.  
 INX 000028902

NATURE OF VIOLATION	CITATION OF REGULATION OR LAW	HARM/ DEVIATION	GRAVITY-BASED PENALTY	MULTI-DAY PENALTY	ADJUSTMENTS	ECONOMIC BENEFIT	TOTAL PENALTY
Count 1 - Failure to make a waste determination.	329 IAC § 3.1-7.1 [40 CFR § 262.111]	major / major	\$32,915	\$0	\$0	\$0	\$32,915
Count 2 - Offered hazardous waste for transportation without an EPA identification number.	329 IAC §§ 3.1-7.1, 3.1-7-10, 3.1-7-11, 3.1-7-12 and 3.1-7-13 [40 CFR § 262.12(a)]	major/major	\$32,915	\$0	\$0	\$0	\$32,915
Count 3 - Failed to ship hazardous waste on a required manifest.	329 IAC § 3.1-7.1 [40 CFR § 262.20(a)]	major/major	\$32,915	\$0	\$0	\$0	\$32,915
Count 4. Stored hazardous waste without a permit or interim status by failing to comply with the following permit exemption conditions:	329 IAC § 3.1-7 and 13-1 [40 CFR § 270.1(c)]						
a. Failure to label 39 drums and one accumulation tank with the words "Hazardous Waste"	329 IAC §§ 3.1-6-1 and 3.1-7-1 [40 CFR §§ 262.34(a)(3), 262.34(d)(3) and 261.5(g)(2)]	moderate/major	\$13,455	\$0	\$0	\$0	\$13,455
b. Failure to inspect the hazardous the waste storage area once a week.	329 IAC §§ 3.1-6-1 and 3.1-7-1 [40 CFR §§ 262.34(a)(1), 262.34(d)(3) and 261.5(g)(2)]	moderate/moderate	\$9,210	\$9,210 (considered multiple violation for 2 wks of no inspections).	\$0	\$0	\$18,420
c. Failure to have a contingency plan	329 IAC §§ 3.1-7-1 [40 CFR §§ 262.34(a)(4), 265.51 and 265.53]	major / major	\$32,915	\$0	\$0	\$0	\$32,915
d. Failure to have a training program and maintain documentation that the training was completed	329 IAC §§ 3.1-7-1 and 10-1 [40 CFR §§ 262.34(a)(4), 265.16(a)-(c) and 265.16(d)(1)]	major/major	\$32,915	\$0	\$0	\$0	\$32,915
Count 5. Stored used oil in unmarked containers	329 IAC § 3.13-4-3(d) [40 CFR §279.22(c)(1)]	moderate/major	\$9,120	\$0	\$0	\$0	\$9,210
Count 6. Failed to contain Used oil Releases	329 IAC §§ 3.13-4-3(e)(1)-(5) [40 CFR §§279.22(d)(1)-(4)]	major/major	\$32,915	\$0	\$0	\$0	\$32,915
Count 7. Failed to comply with the standards for small quantity handlers of Universal waste by failing to comply with the following requirements:							

a. Failed to manage batteries in a way in a way that prevent releases	329 IAC §3.1-16-1 [40 CFR §273.13(a)]	moderate/moderate	\$9,210	\$0	\$0	\$0	\$0	\$9,210
b. Failed to mark a container holding batteries and have an inventory system to keep track of the batteries stored at the facility	329 IAC §3.1-16-1 [40 CFR §273.15(e)]	minor/major	\$3,190	\$0	\$0	\$0	\$0	\$3,190
b. Failed to mark a container holding batteries and have an inventory system to keep track of the batteries stored at the facility	329 IAC §3.1-16-1 [40 CFR §273.15(e)]	minor/major	\$3,190	\$0	\$0	\$0	\$0	\$3,190
c. Failure to train employees that handle or manage universal waste.	329 IAC §3.1-16-1 [40 CFR §273.16]	moderate/moderate	\$9,210	\$0	\$0	\$0	\$0	\$9,210
<b>Subtotals</b>								<b>\$263,375</b>

**\*\* Economic Benefit is not included in total penalty because it is insignificant.**

Note: The gravity-based penalty amount is determined using the Revised Penalty Matrices for the RCRA Civil Penalty Policy, dated January 11, 2005. The multi-day component of the gravity-based civil penalty is determined using the multi-day matrix outlined in the Revised Penalty Matrices for the RCRA Civil Penalty Policy, dated January 11, 2005. Policy adjustments and economic benefit (BEN) are as explained in the 2003 RCRA Civil Penalty Policy. Finally, the gravity-based penalty is adjusted for inflation (where appropriate) in order to implement the Civil Monetary Penalty Inflation Rule pursuant to the Debt Collection Improvement Act of 1996.