



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

**MAR 10 2016**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL 7009 1680 0000 7669 1963**  
**RETURN RECEIPT REQUESTED**

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

Re: Consent Agreement and Final Order  
Summit Inc., Gary, Indiana  
Docket No: RCRA-05-2014-0006

Dear Mr. Coulopoulos:

Enclosed please find a copy of the signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on March 10, 2016, with the Regional Hearing Clerk (RHC). The CAFO is binding on Summit, Inc. (Summit). Summit is required to complete the work required by the CAFO.

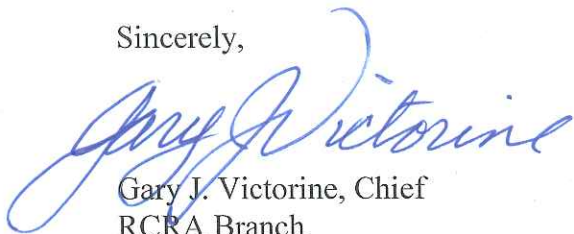
Please submit all deliverables required to be submitted to EPA to:

Spiros Bourgikos (LR-8J)  
RCRA Branch  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois. 60604

Please pay the civil penalty in the amount of \$263,375 in the manner prescribed in paragraph 10 of the CAFO, and reference all checks with the docket number RCRA-05-2014-0006. Your payment is due within 30 calendar days of the effective date of the CAFO.

Also enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,



Gary J. Victorine, Chief  
RCRA Branch

Enclosure

cc: Mark Thiros, Esq.  
Thiros & Thiros, PC

Nancy Johnston, Indiana Department of Environmental Management  
([njonston@idem.in.gov](mailto:njonston@idem.in.gov))

## **NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS**

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:

Summit, Inc.  
Gary, Indiana

Respondent.



Docket No. RCRA-05-2014-0006

Proceeding to Assess a Civil Penalty  
Under Section 3008(a) of the Resource  
Conservation and Recovery Act,  
42 U.S.C. § 6928(a)

Consent Agreement and Final Order

Preliminary Statement

1. Complainant, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative action seeking a civil penalty 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).

2. On March 17, 2014, U.S. EPA filed the Complaint in this action against Respondent Summit, Inc. The Complaint alleges that Respondent violated Sections 3002-3005, 3006 and 3014 of RCRA, 42 U.S.C. § 6922-6925, 6926 and 6935, at its facility in Gary, Indiana.

3. Respondent filed an Answer on April 17, 2014, and requested a hearing under Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and 40 C.F.R. § 22.15.

Stipulations

4. Respondent withdrew its answer on March 8, 2016. Respondent admits the jurisdictional allegations in the Complaint and paragraphs 1 to 130 of the Complaint.

5. Respondent has stipulated to the authenticity and admissibility of Complainant's exhibits CXs 4, 4A, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 26, 27, 28, 30, 32, 44, 52, 53, 55 (pages 1573 through 1588), 56, 57, 58, 59, 61, 62, and 63.

6. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

7. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6992k and the applicable regulations.

8. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

9. The parties agree that settling this action without further litigation, upon the terms of this CAFO, is in the public interest.

#### **Civil Penalty**

Within 30 days after the effective date of this CAFO, Respondent must pay the \$263,375 civil penalty for the RCRA violations by sending a cashier's or certified 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, MO 63197-9000

[for checks sent by express mail]

U.S. Bank  
Government Lockbox 979077 U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

The check must state In the Matter of Summit, Inc. and the docket number of this CAFO.

10. A transmittal letter stating Respondent's name and the case docket number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Spiros Bourgikos (LR-8J)  
RCRA Branch  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

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

11. This civil penalty is not deductible for federal tax purposes.

12. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

13. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### **Compliance Plan**

14. Respondent shall develop and implement a Contingency Plan pursuant to 329 IAC 3.1-7-1 (40 CFR 262.34(a)(4), 265.51 and 265.53) and an Employee Training Plan that complies with 329 IAC 3.1-7-1 and 10-1 (40 CFR 262.34(a)(4), 265.16(a)-(c) and 265.16(d)(1),

268.7(a)(5)). The Plans shall address hazardous waste, used oil and universal wastes. The Respondent shall submit new versions of these Plans to EPA for review and approval within 30 days of the effective date of this CAFO. These plans shall identify all crushers that the Respondent owns or operates and their location (name of company, street address, city, state and zip code).

15. Respondent shall submit to EPA within 30 days of the effective date of this CAFO a list of all crushers that it owns or operates and their location at that time. It shall include the location the name and address of where the crusher is located. Respondent shall identify which if any of these crushers are leased. For non-leased crushers the Respondent shall maintain a daily log of the location of the crusher and the transporter of any waste streams generated from the operation of the crusher. The Respondent shall submit a quarterly report of these daily logs to EPA up until one year of the effective date of this CAFO.

16. The Respondent shall label all containers of hazardous waste, used oil and universal waste in accordance with 329 IAC 3.1-6-1 and 3.1-7-1, (40 CFR 262.34(a)(3) and (d)(3)) and 329 IAC 13-4-3(d) (40 CFR 279.22(c)(1)) and 329 IAC 3.1-16-1 (40 CFR 273.14(a) and 15(c)).

17. Respondent shall submit a Notification of Regulated Waste Activity, EPA SF 8700-12 (Notification), to EPA and IDEM within 15 days of the effective date of this CAFO. The Notification shall be complete. Respondent shall include in the Notification that it is a storage facility of hazardous waste and a large quantity generator.

18. Respondent shall submit to EPA and IDEM for review and approval a closure plan for areas A and B as marked on Exhibit 1. The Closure Plan shall comply with 329 IAC 3.1-11.1-7. Respondent shall implement the closure plan in accordance with the schedule and plan approved or modified by IDEM.

**General Provisions**

19. This CAFO resolves only Respondent's liability for federal civil penalties and injunctive relief for the violations alleged in the Complaint.

20. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

21. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, and local laws and permits.

22. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

23. The terms of this CAFO bind Respondent, its successors, and assigns.


24. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

25. Each party agrees to bear its own costs and attorneys' fees in this action.

26. This CAFO constitutes the entire agreement between the parties.

**Summit, Inc., Respondent**

3/8/16  
Date \_\_\_\_\_

  
Peter Coulopoulos, General Manager  
Summit, Inc.



**United States Environmental Protection Agency, Complainant**

3/08/2014

Date



Margaret M. Guerriero  
Director

Land and Chemicals Division

**In the Matter of:  
Summit, Inc.  
Docket No. RCRA-05-2014-0006**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

March 9, 2016

Date



Robert A. Kaplan  
Acting Regional Administrator  
United States Environmental Protection Agency  
Region 5

In the matter of: Summit, Inc.  
Docket Number: RCRA-05-2014-0006

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on March 10, 2016, this day in the following manner to the addressees:

Copy by certified mail  
return-receipt requested:

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

Copy by e-mail to  
Attorney for Complainant:

Richard Clarizio  
clarizio.richard@epa.gov

Copy by e-mail to  
Regional Judicial Officer:

Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Dated:

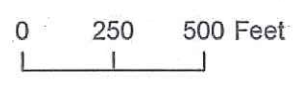
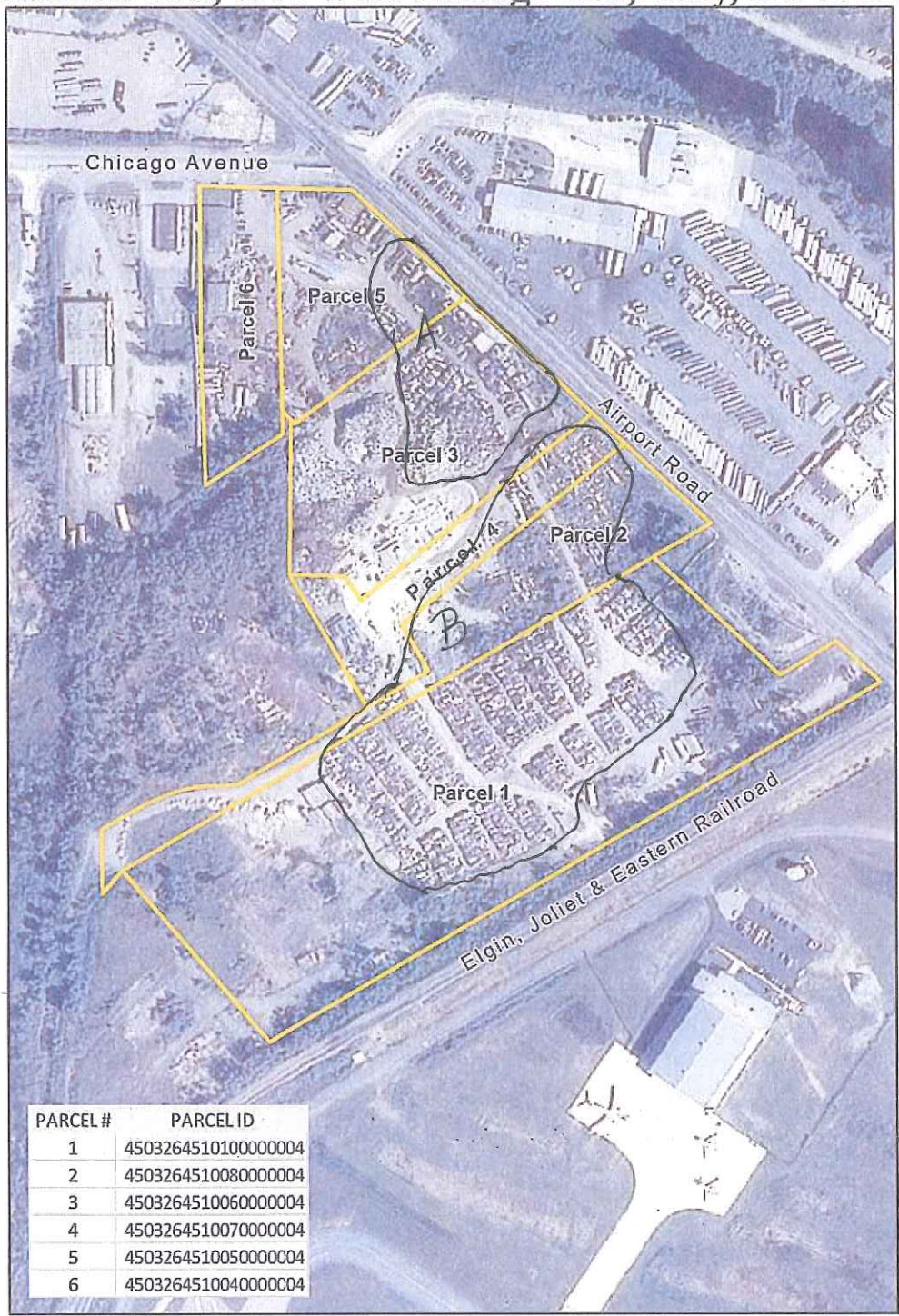
March 10, 2016 

LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7669 1963

Exhibit 1

### Parcel Boundaries for Summit Inc., 6901 West Chicago Ave, Gary, IN 46406



Imagery: USDA NAIP Summer 2008  
US EPA R5 LCD: LS 2/10/16