

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

In the Matter of:) **Docket No. RCRA-005-2014-0006**
)
Summit, Inc.) **Proceeding to Assess a Civil Penalty**
6901 West Chicago Avenue) **Under Section 3008(a) of the Resource**
Gary, Indiana) **Conservation and Recovery Act,**
) **42 U.S.C. § 6928(a)**
U.S. EPA ID #: INX 000 028 902)
) **RCRA-05-2014-0006**
Respondent.)
_____)

DECLARATION

SUE BRAUER

I, Sue Brauer, being called as a potential witness, state the following under oath:

1. I am an Environmental Scientist employed by U.S. EPA, Region 5 for twenty six years. During that time I have had a number of different duties. However, during that entire time I have been active in the regulation of used oil pursuant to the Resource Conservation and Recovery Act (RCRA), as amended, among other duties. In 1992 I was promoted to be the RCRA Used Oil Expert for Region 5. As the Used Oil Expert my duties over time have included oversight of contractor inspections, training inspectors, responding to public and government inquiries related to used oil, participation in Canadian-U.S. workgroups relevant to toxic materials in used oil, grant-

funded used oil-related partnerships with industry, and enforcement of RCRA regulations ranging from conducting inspections to testifying in litigation.

2. I have a Bachelor of Arts degree (Geology major) and the Area Certificate in Environmental Studies from Indiana University, Bloomington, Indiana. I earned two Master of Science degrees, Geology and Water Resources Management, from the University of Wisconsin at Madison. Before working for the U.S. Environmental Protection Agency (U.S. EPA or EPA) I was a University of Wisconsin research assistant; I reviewed water quality data for United States Geological Survey (USGS); I worked for the Georgia Geologic Survey; and I performed chemical and physical soil analyses for the Indiana University Water Resources Research Center. A true and accurate copy of my resume is included as Complainant's Exhibit 22 (CX 22).

3. I have participated in over 50 RCRA inspections since at least 2007. I have personally conducted over 20 inspections for compliance with the RCRA used oil management standards. I have reviewed approximately 60 contractor inspections for the used oil management standards. I have trained over 50 EPA inspectors to conduct used oil management inspections. I have inspected at least five (5) scrap yards that accept automobiles for crushing and/or shredding. I am familiar with the various automotive liquids present in scrap vehicles and the typical operations of automotive scrap yards. Generally, before crushing or shredding an automobile a scrap processor will puncture the gasoline tank to drain and collect, through gravity, the gasoline that is in the gasoline tank. This process will not necessarily capture all of the gasoline. Scrap processors will not usually pump out or collect, prior to crushing or shredding, any other automotive liquids. Those automotive liquids include, but are not limited to engine and transmission

oils, anti-freeze and brake fluid. These automotive liquids usually remain in the automobiles when they are crushed and drip from the automobiles as a result of the crushing operations and due to gravity. Automatic transmission fluid, engine oil, brake fluid and gear oil are produced from refined crude oil. When used in automobiles they become contaminated with a number of chemical and physical impurities such as, but not limited to, engine gasoline, metals from the lubrication of metal bearing components, sediments, water and antifreeze. Residual gasoline may typically be mixed with the collected automotive liquids as a result of either mixture with non-gasoline wastes, or as a result of residual gas in a crushed car mixing with the other oily liquids.

4. I participated in a RCRA inspection of the Summit facility located at 6901 Chicago, Gary, Indiana on April 2, 2008 and March 18, 2009, with Mr. Spiros Bourgikos. True and accurate copies of my report or notes from those inspections are included as CX 6 and CX 14 (pages CX000492-000497). I also reviewed documents related to Summit's compliance with RCRA, including but not limited to information requests and responses to information requests from Summit. CX 9, 13, 15 and 16. I am also familiar with Beaver Oil Company through inspections I personally participated in or am aware of in 2004, 2009 and 2012 conducted at their facility located on Lenzi Avenue in Hodgkins, Illinois in 2004, 2009 and 2012. Beaver Oil is a permitted hazardous waste treatment, storage and disposal facility and a permitted Centralized Waste Treatment facility. They receive hazardous waste and used oil. They are also a used oil processor.

5. I have also reviewed documents, including but not limited to information requests and responses to information requests sent to Beaver Oil related to shipments

from Summit to Beaver Oil on or after March 19, 2009. CX 17, p. CX000767-000777, Questions 16-19 and CX 18 (CBI), pp. CX000777-000778CBI and 000785-000815CBI.

6. Prior to inspecting Summit I conducted a search of various state and federal databases. I determined that Summit was registered with the Indiana Department of Motor Vehicles as an Auto Salvage Facility. It was not registered as "Summit" in any of U.S. EPA's hazardous waste or used oil management databases.

7. During my inspections of the Summit facility I focused on Summit's compliance with the used oil management requirements. I also assisted with sample collection and documentation during the March 18, 2009, inspection. During both inspections I observed car crushers at the Summit facility and crushed vehicles in piles at the facility. I also interviewed employees while I was at the Summit facility. Prior to crushing a vehicle Summit collected the gasoline in the vehicle gas tanks by using a spike and gravity to collect the gasoline. It did this in an area referred to as the gasoline recovery shed. It did not separately collect any other vehicle liquids such as engine lubricating oils, transmission or brake fluid or anti-freeze prior to crushing the vehicle. These liquids and residual gasoline were collected after the vehicle was crushed through the use of drip pans. The contents of the drip pans were transferred to drums. During the March 18, 2009, inspection drums of these collected vehicle liquids were also stored in the gasoline recovery shed.

8. During the March 18, 2009, inspection there appeared to be twice as many crushed vehicles as I observed during the April 2, 2008, inspection. CX 14, p. CX000497. I observed automotive fluids on the ground between stacks of cars and in areas around the gasoline recovery shed. CX 14, photos 23-32, CX 000563-000572. The

stained soils appeared to have been contaminated with used oils and anti-freeze from the crushing of the automobiles. Brake and transmission fluids are refined from crude oil and are regulated as "used oil" when spent due to contamination through use.

9. I also observed dark puddles with a sheen that looked to contain both gasoline and automotive liquids containing oil. CX 14, photo 30, CX 000570. Some of the liquids were more viscous than gasoline and were black. The black color was indicative of oils that have been used and contaminated through use. Some of these oils may have been engine oil and other spent automobile fluids from the crushed vehicles.

10. I observed in the gasoline recovery area 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. The liquid appeared to be red-dyed diesel fuel and maybe automatic transmission fluid (ATF). EPA included used automatic transmission fluid as an example of used oil in the preamble to the November 29, 1985 final used oil fuel rule. There was a gasoline or diesel fuel smell near the box. I also observed a horizontal red tank inside a box on a concrete pad. On the pad outside the gasoline recovery shed, dirt mixed with oil formed a moldable mud. There was dirt saturated with what appeared to be oil. In the area between crushed cars off the concrete pad I 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.

11. Summit's employees told me that the contents of the 39 drums were liquids from the crushing of automobiles and contained liquids. Summit's employees also told me that Summit did not separate anti-freeze from other engine oil liquids. It relied on Beaver Oil Company to do that. CX 14, p. CX000494.

12. During the March 18, 2009, inspection Spiros Bourgikos, Jamie Paulin and I collected soil and liquid samples. I wrote down the sample numbers, intended analysis of each sample, the jar seal number, the bag seal number, and general sample locations in a notebook and maintained the log of the samples collected. CX 14

13. EPA collected samples from four drums in the gasoline recovery shed. None of the drums had labels indicating whether they were used oil or hazardous waste. The results of the sampling effort are included in CX 14. EPA did not analyze the samples for the purposes of determining if they contained oil. EPA has not defined used oil using a chemical or physical test method. It is not necessary to sample a liquid to determine if it is an oil or a used oil. Frequently, it is possible to determine that by visually observing the color, smell or viscosity of the liquid within the context of where it is found. Based on my experience and observations at scrap yards and my personal experience with cars, automotive used oils would typically be black for used engine oils and reddish for automatic transmission fluids. Due to density differences between oil and water, oil floats on aqueous mixtures. The consolidated liquid waste samplers (COLIWASA) we used allowed EPA to observe the sampled liquids removed from the drums. One drum sample contained a reddish oily liquid above a yellow-green antifreeze-appearance liquid. In my opinion, the reddish oily phase was used oil. This used oil was spent because it could not be used or reused, without the potential for harming the automobile, without processing. A sample from a different drum had the brown color of milk chocolate, was an oily liquid, and reminded me of instant chocolate pudding. In my opinion, based on the handling of automobile liquids at the site and my knowledge that water-contaminated used oil sometimes gels, this oily brown liquid contained used oil.

Beaver Oil employees used a stick to determine if unmarked drums contained used oil at Summit during the April 2, 2008, inspection. CX 6, p. CX000188.

14. On September 15, 2009, and October 27, 2009, EPA sent information requests pursuant to section 3007 of RCRA to Summit and Beaver Oil. I assisted with writing the questions related to determining compliance with the used oil requirements for the Summit shipments. Questions 16-19 of the Beaver Oil information request related to shipments of liquids from Summit to Beaver Oil from March 19, 2009 until October 27, 2009. CX 17, p. CX000767-000768. Summit submitted its response to the information request on October 6, 2009 (CX 16) and Beaver Oil submitted its response on December 14, 2009 (CX 18, Confidential Business Information (CBI)).
15. I reviewed both Summit's and Beaver Oil's information request responses. I determined that one shipment with Ticket 28672 involved the off-site shipment of the contents of the 39 drums I observed and the 4 drums EPA sampled on March 18, 2009. CX 16 and CX 18CBI. Job ticket 28672 included these driver remarks, "Pump out 48 drums & pumped out drum overflow containment box's. Drums mixed with A/F-H2O-some gas." Invoice 152262 corresponds to job ticket 28672 and included this description of work, "removed 750 oil, removed 2250 water." Based on my familiarity with Beaver's waste receipt and bottom sediment and water (BSW) recordkeeping on practices at its Hodgkins, Illinois facility, Beaver commonly reports antifreeze as water.
16. Summit indicated that the contents of the 39 drums were waste oils from the drain pads collected from March 5-18, 2009 and mixed in a tank with other liquids prior to being pumped and shipped off-site to Beaver Oil. CX 16, p. CX000738-000739, Question and Answers #7 and 8. Summit identified and provided copies of shipping Ticket #28672

and the invoice number 152262 dated 4/1/09 as the documents associated with this shipment. CX 16, p. CX000737 Question and Answer #2 and CX000740-000741. There were no other documents; no manifest.

17. The shipping ticket supports that the liquids were mixed at the Summit facility and shipped off-site as a mixture. The Beaver Oil driver wrote on shipping Ticket #28672 that the contents of the shipment consisted of: "pump of 48 drums & pumped out drum overflow containment Box's (sic). Drums mixed with A/F H2O some gasoline." CX 16, p. CX000741. A more legible copy of this same ticket is included in CX 18 CBI, p. CX000791CBI.
18. I determined that the shipment associated with Ticket #28672 was stored at Summit prior to receipt by Beaver Oil Company's Hodgkins, Illinois facility. Beaver stated that the wastes pumped from drums were placed in Tank 32. From my review of Beaver Oil Company documents on file at EPA, including permit applications, Tank 32 receives water, antifreeze and oil mixtures and is equipped with heat to separate water from the oil. The oil is then transferred to on-site fuel tanks or is processed further before transfer to fuel tanks. Summit indicates that Beaver Oil Company recycled the 3,000 gallons it pumped out and associated with shipping Ticket #28672. CX 16, CX 000738, Question and Answer #4. Invoice 152262 indicates that 750 gallons of oil and 2250 gallons of water were removed from the total of 3,000 gallons associated with shipping ticket #28672. CX 16, p. 000740. Beaver Oil indicated that this shipment was delivered to its

Hodgkins facility and pumped into Tank 32 and recycled. CX 18CBI, p. CX000777CBI, Question and Answer 18¹.

19. Beaver Oil manages all used oil and waste oil² received as “used oil,” as that term is defined by RCRA regulation. Beaver Oil heats the oil to remove the water and treats the aqueous portion before discharging it. Beaver Oil generates a sludge from treatment of the aqueous portion and ships that off-site for land disposal. After the oil has been heated, acid is added to reduce the pH to about 2; this breaks oil-water emulsions. The acidic water is neutralized by adding caustic prior to discharge. The oil portion is sold by the Hodgkins facility as oil or used oil or transferred to Beaver Oil’s Gary, Indiana used oil processor facility for further blending, including into fuel. Based on my personal inspections of the Hodgkins facility, Tank 32 is one of about ten (10) tanks in the nonhazardous tank farm at Beaver Oil. According to Beaver Oil’s response to EPA’s information request, all motor oils from Summit are placed in tanks in this tank farm.

20. The constituents of concern for U.S. EPA for used oil typically are arsenic, barium, cadmium, chromium, lead, benzene, trichloroethylene, tetrachloroethylene, trichloroethane, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene and polychlorinated biphenyls.

Sue Rodenbeck Brauer Oct. 16, 2014

¹Beaver Oil Company mistakenly refers to Ticket # 28572 in response to question 18 on p.CX000777CBI. I determined that the correct reference should be to Ticket #28672 by examining all of the invoices submitted against the list presented. There were no invoices Ticket 28572.

²Beaver Oil Company annually reports, to Illinois EPA, receiving used oil and waste oil and processing it into fuel to be burned for energy recovery off-site.

