



ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re:)
Land O'Lakes, Inc. (Hudson Oil Refinery) CERCLA § 106(b) Petition No. 15-01
Superfund Site)
Docket No. 06-16-08)

ORDER DISMISSING PETITION WITH PREJUDICE

On November 2, 2021, Petitioner Land O'Lakes, Inc., submitted a request to dismiss with prejudice their petition for reimbursement filed under section 106(b)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9606(b)(2), in the above-captioned matter.1 Their petition has been pending and stayed before the Environmental Appeals Board ("Board") while litigation in a cost recovery case on overlapping liability issues has proceeded in federal court. In August 2021 the parties informed the Board that a definitive settlement had been reached in the cost recovery case, and now Petitioner represents that on October 29, 2021, the U.S. District Court for the Western District of Oklahoma in United States v. Land O'Lakes, Inc., and Cushing, Oklahoma Brownfields, LLC, Case No. 5:16-cv-00170, entered a consent decree resolving the claims in the petition.

1 While Land O'Lakes, Inc. labeled its filing "Dismissal with Prejudice," the Environmental Appeals Board will treat the filing as a motion to withdraw and request for dismissal consistent with the Board's CERCLA Standing Order. See Order on Procedures for Petitions for Reimbursement Submitted Under Section 106(b)(2)(A) of the CERCLA of 1980, 42 U.S.C. § 9606(b)(2)(A), app. A (EAB July 7, 2020).

Having considered Petitioner's submittal and the representations therein, the Board
GRANTS the request and **DISMISSES WITH PREJUDICE** their petition for reimbursement.

So ordered.²

ENVIRONMENTAL APPEALS BOARD

Dated: Nov 04, 2021

By: 
Mary Kay Lynch
Environmental Appeals Judge

² The panel deciding this matter is composed of Environmental Appeals Judges Mary Kay Lynch and Kathie A. Stein.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Dismissing Petition with Prejudice* in the matter of Land O'Lakes Inc. (Hudson Oil Refinery Superfund Site), CERCLA § 106(b) Petition No. 15-01, were sent to the following persons in the manner indicated.

By Email:

Attorneys for Petitioner

Stephen L. Jantzen, Esq.
Mark D. Coldiron, Esq.
Ryan Whaley Coldiron Jantzen
Peters & Webber PLLC
400 N. Walnut Avenue
Oklahoma City, OK 73104
Telephone: (405) 239-6040
Telefax: (405) 239-6766
sjantzen@ryanwhaley.com
mccoldiron@ryanwhaley.com

Byron E. Starns, Esq.
Stinson LLP
50 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 335-1516
Telefax: (612) 335-1657
byron.starns@stinson.com

Attorneys for EPA

George Malone, III
Sr. Asst. Regional Counsel
U.S. EPA, Region 6 (6RC-S)
1201 Elm Street, Suite 500
Dallas, TX 75270-2102
malone.george@epa.gov

Clarence Featherson Office of
Enforcement and Compliance Assurance
U.S. EPA (2272A)
1200 Pennsylvania Avenue NW Washington,
DC 20460
featherson.clarence@epa.gov

Lorie Schmidt
Associate General Counsel
Office of General Counsel
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
schmidt.lorie@epa.gov

Dated: Nov 04, 2021

Emilio Cortes

Emilio Cortes
Clerk of the Board