

EXHIBIT A

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

In re:

Land O'Lakes, Inc. (Hudson Oil Refinery
Superfund Site)

Docket No. 06-16-08

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CERCLA § 106(b) Petition No. 15-01

JOINT STATUS REPORT

Pursuant to the Environmental Appeals Board's ("Board") April 6, 2017 Third Order Continuing the Stay of Proceedings and Requiring Additional Status Reports in this matter, the parties, by and through their counsel, respectfully provide this status report.

I. THE STATUS OF DOJ'S COST RECOVERY ACTION (THE "COST RECOVERY CASE")

On February 22, 2016, the United States filed an action in the United States District Court for the Western District of Oklahoma, entitled *United States of America v. Land O'Lakes, Inc., and Cushing, Oklahoma Brownfields, LLC*, Case No. CIV-16-0170-R (Judge David L. Russell).

Paragraph 2 of the Complaint states that it is a civil cost recovery action brought under CERCLA.

On November 27, 2017, the Court transferred the case to a new judge, the Honorable Scott L. Palk, and modified the case number to: CIV-16-170-SLP.

On March 12, 2018, the Court in the Cost Recovery Case entered an agreed Second Amended Case Management Scheduling Order, extending the deadline for completion of fact discovery by four months to August 31, 2018 and correspondingly extending subsequent deadlines in the Pretrial schedule. A copy of the March 12, 2018 Order is attached as Exhibit 1.

II. THE STATUS OF SETTLEMENT NEGOTIATIONS

Since the last status report to the Board, counsel for the parties have had no additional discussions about the potential structure and scope of settlement discussions.

III. ANY OTHER RELEVANT INFORMATION

The following represents Land O'Lakes' position regarding its intent to seek leave to amend its CERCLA 106(b) petition. As explained in the previous five status reports to the Board, Land O'Lakes intends to file a motion for leave to file a First Amended Petition. Land O' Lakes is evaluating its planned motion for leave to file a First Amended Petition in light of the Court's February 22, 2017 Order striking and dismissing its affirmative defenses and counterclaims alleging that certain Bankruptcy Court Orders bar the issuance of the UAO, and any claims by the EPA related to or arising out of the issuance of the UAO, but also in light of documents and things produced by the United States in the Cost Recovery Case, but perhaps previously withheld from Land O'Lakes under FOIA.

The following represents EPA's Position on this matter. The CERCLA 106(b) proceeding was stayed in its entirety by the Board's Second Order Extending the Stay and Proceedings on March 15, 2016, and Third Order Continuing Stay of Proceedings on April 6, 2017. The Region believes there is no basis for the EAB to take an unusual step of ordering a substantial filing during the stay. Despite the above, the Region reserves the right to contest any such motion filed by Land O'Lakes, and any actions taken to enlarge or amend the original CERCLA 106(b) petition claims and arguments. In addition, EPA Region 6 reserves the right to contest all matters in this action including any factual and legal arguments that concern satisfaction of CERCLA 106(b) prerequisites (e.g., timeliness of advancing claims and supporting evidence) consistent with the EAB's February 3, 2016, Stay Order. Land O' Lakes previously requested and was granted access by EPA Region 6 counsel to the EPA Region 6 document depository in 2008 and 2010. On those occasions, Land O' Lakes requested and

received copies of a more limited set of documents than those requested after the 2017 document inspection at the EPA Region 6 depository.

Land O' Lakes' position is that EPA has waived and forfeited any challenges to CERCLA 106(b) prerequisites in this matter, and that the EAB order of February 3, 2016 reserved determination of: (1) whether Land O' Lakes established the prerequisites for its Section 106 claim; and (2) whether EPA had waived any challenges to the prerequisites.

With regard to the status of Land O' Lakes' pending FOIA Appeal Number HQ-APP-00098-10, the previous status report is updated as follows: The United States believes and states it: 1) has produced all of the documents initially withheld under 5 U.S.C. §§ 552(b) (4) and (6); and 2) has produced, or withheld as privileged/protected, all of the documents initially withheld under 5 U.S.C. §§ 552(b) (5) and (7). The United States provided Land O'Lakes with privilege logs on May 5, 2017 (55 Entries) and on September 7, 2017 (249 Entries) in accordance with the Cost Recovery Case discovery order. Land O' Lakes has not completed its review of the document productions and privilege logs of the United States to identify the previously withheld FOIA documents that were either produced or listed on the United States' privilege logs. Land O' Lakes reserves all rights with regard to the completeness of the production and any privilege claims. Land O' Lakes' FOIA appeal is currently assigned to an attorney in the Office of General Counsel, and Land O' Lakes intends to continue to pursue that appeal.

Fact discovery in the Cost Recovery Case is ongoing and is currently scheduled to conclude on August 31, 2018.

Respectfully submitted,

/s/ George Malone

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Case No. 5:16-CV-00170-SLP

Judge Scott L. Palk

Plaintiff,

v.

**ORDER GRANTING JOINT
MOTION TO ENTER
SECOND AMENDED CASE
MANAGEMENT SCHEDULING
ORDER**

LAND O'LAKES, INC., and CUSHING,
OKLAHOMA BROWNFIELDS, LLC,

Defendants.

Before the Court is the Parties' Joint Motion to Enter Second Amended Case Management Scheduling Order [Doc. 76]. For good cause shown, the Court GRANTS the Joint Motion to Enter Second Amended Case Management Scheduling Order.

Item	Stipulated Schedule
Discovery Begins (initial RFPs served)	October 31, 2016
Motions to Join Additional Parties	November 30, 2016
Motion to Amend Pleadings	January 31, 2017
Third Party Document Subpoenas	April 30, 2018
Written Discovery Requests	May 31, 2018
Close of Fact Discovery	August 31, 2018
Deadline for Plaintiff's initial expert reports on Liability and Costs	September 28, 2018

Item	Stipulated Schedule
Deadline for Defendants' (1) rebuttal expert reports that respond to Plaintiff's initial expert reports; and (2) initial expert reports on affirmative defenses and counterclaims	November 30, 2018
Deadline for Plaintiff's rebuttal expert reports limited to Defendants' initial expert reports	January 31, 2019
Expert depositions commence	March 1, 2019
Expert depositions concluded	June 28, 2019
All discovery closed	June 28, 2019
Dispositive/Daubert Motions filed	August 30, 2019
Dispositive/Daubert Oppositions filed	September 30, 2019
Dispositive/Daubert Replies filed	October 15, 2019
Pretrial filings	As the Court schedules
Trial	As the Court schedules

IT IS SO ORDERED this 12th day of March, 2018.


 SCOTT L. PALK
 UNITED STATES DISTRICT JUDGE