

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

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AUG 01 2019

In re:
Titan Tire Corporation & Dico, Inc.
(Southern Iowa Mechanical Superfund Site)

CERCLA Administrative Order
No. CERCLA-07-2009-0006

**ENVIRONMENTAL APPEALS BOARD
CERCLA § 106(b) Petition No. 10-01**

JOINT AUGUST 1, 2019 STATUS REPORT

Petitioners Titan Tire Corporation and Dico, Inc. (“Dico”), by and through their attorneys, Thomas D. Lupo and Michael F. Iasparro of Hinshaw & Culbertson LLP, and Respondent, U.S. Environmental Protection Agency, by and through its attorney, Katherine Gulley, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 7, submit this Joint August 1, 2019 Status Report. This status report is being submitted pursuant to the Environmental Appeals Board’s (“Board”) April 26, 2019 *Order Continuing Stay of Proceedings and Notifying Parties of Service by E-Mail*, which requires the parties to submit

quarterly status reports, beginning August 1, 2019, and continuing every three months . . . advising the Board of the status of the Eighth Circuit litigation. Within twenty-one days after the Eighth Circuit denies rehearing en banc or, if rehearing en banc is granted, within twenty-one days after the Eighth Circuit issues a decision en banc, the parties must inform the Board of the outcome of the proceedings and recommend next steps for orderly resolution of the present appeal.

On April 11, 2019, the Eighth Circuit issued an opinion in *United States of America v. Dico, Inc. and Titan Tire Corp.*, Case No. 17-3462, affirming the District Court’s judgment in favor of the United States.

On May 24, 2019, Dico filed a *Petition for Panel Rehearing and for Rehearing En Banc* with the Eighth Circuit.

On June 19, 2019, the Eighth Circuit ordered the United States to respond to Dico's Petition for rehearing en banc. On July 22, 2019, the United States filed its response in opposition to Dico's petition for rehearing en banc. The parties are now awaiting a decision from the Eighth Circuit. The parties propose that the existing stay of proceedings of this matter continue pending the outcome of the Eighth Circuit petition for rehearing. If rehearing en banc is granted, the Board will be updated following the related hearing and outcome.

Dated: August 1, 2019

By: /s/ Thomas D. Lupo
Thomas D. Lupo
Michael F. Iasparro
Hinshaw & Culbertson LLP
222 N. LaSalle Street
Suite 300
Chicago, IL 60601
Phone: (312) 704-3000
Fax: (312) 704-3001
E-mail: tlupo@hinshawlaw.com
miasparro@hinshawlaw.com

ATTORNEYS FOR PETITIONERS

By: /s/ Katherine E. Gulley
Katherine E. Gulley
Attorney-Adviser
Office of Regional Counsel
U.S. Environmental Protection
Agency, Region 7
11201 Renner Blvd.
Lenexa, KS 66219
Phone: (913) 551-7880
Fax: (913) 551-7925
Email: gulley.katherine@epa.gov

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2019, the foregoing was filed with the Environmental Appeals Board and on August 1, 2019 has been served by U.S. Mail on counsel of record.

Thomas D. Lupo and Michael F. Iasparro
Hinshaw & Culbertson LLP
222 N. LaSalle St.
Suite 300
Chicago, IL 60601
Telephone: 312-704-3000
Fax: 312-704-3001
Email: tlupo@hinshawlaw.com, miasparro@hinshawlaw.com

/s/ Katherine E. Gulley
ATTORNEY FOR U.S. ENVIRONMENTAL
PROTECTION AGENCY, REGION 7

