

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

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ENVIRONMENTAL APPEALS BOARD

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

CERCLA § 106(b) Petition No. 10-01

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

JOINT NOVEMBER 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 November 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 August 14, 2019, the Eighth Circuit Court of Appeals denied Dico’s Petition for Panel Rehearing and for Rehearing En Banc in *United States of America v. Dico, Inc. and Titan Tire Corp.*, Case No. 17-3462. Dico filed a motion with the Eighth Circuit to stay the mandate, which was denied on August 14, 2019. The mandate was issued on August 16, 2019.

At present, Dico has not filed a petition for certiorari with the United States Supreme Court. The parties have reached a settlement agreement in principle. The parties request the present stay be continued to permit the parties to finalize a consent decree. The parties will notify the Board when the consent decree is lodged with the U.S. District Court for the Southern District of Iowa.

Dated: November 1, 2019

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CERTIFICATE OF SERVICE

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

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