



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

Cecilia Tapia, Director  
Superfund Division  
U.S. Environmental Protection Agency  
901 N 5<sup>th</sup> Street  
Kansas City, KS 66101

ENVIRONMENTAL APPEALS BOARD

Re: Titan Tire Corporation and Dico, Inc.  
Docket Number: CERCLA-07-2009-0006  
Petition Number: CERCLA 106(b) 10-01

Dear Ms. Tapia:

Enclosed is an undated petition for reimbursement (received by the Environmental Appeals Board (the "Board") on May 24, 2010), filed by Mark E. Johnson on behalf of Titan Tire Corporation and Dico, Inc. pursuant to CERCLA Section 106(b). The petition seeks reimbursement of costs incurred by the petitioner.

A copy of the petition can be found on the Board's online docket at [http://yosemite.epa.gov/oa/EAB\\_Web\\_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/c42005d3ad9683418525772d006628a5!OpenDocument](http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/c42005d3ad9683418525772d006628a5!OpenDocument). If you have any difficulty accessing this document, please let me know.

The Board has issued a revised guidance document, dated November 10, 2004, describing the Board's procedures for addressing Section 106(b) reimbursement petitions. It can be found on the Board's website at <http://www.epa.gov/eab/cercla-guidance2004.pdf>.

Accordingly, please have your staff prepare and submit a response to the petition, as described more fully in Section IV.A of the Board's guidance. If your response challenges the petitioner's eligibility to seek reimbursement, without regard to the merits of the reimbursement claim, the response should be filed not later than July 25, 2010. If, however, your response does address the merits of the reimbursement claim, the response should be filed not later than August 23, 2010. Filing may be accomplished electronically pursuant to the Board's Order of January 28, 2010.<sup>1</sup> Alternatively, filing may be accomplished by filing a paper original (signed in

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<sup>1</sup> The Board has issued an Order authorizing the electronic filing of documents in cases involving petitions for reimbursement pursuant to CERCLA Section 106(b). See Order Authorizing Electronic Filing in Proceedings Before the Environmental Appeals Board Not Governed by 40 C.F.R. Part 22 (Jan. 28, 2010), available at <http://www.epa.gov/eab> (click "Standing Orders" on sidebar). Instructions on registration and document filing are available by using the "Electronic Filing" link on the Board's website. Documents containing confidential business information should not be filed electronically as the Board considers business confidentiality claims waived when a document is electronically filed. *Id.* at 5-6. Please note that if a party, or its attorney or other representative, electronically files any document, such as a notice of appeal, brief, or motion, that exceeds fifty (50) pages in length, inclusive of

blue ink) and two copies of these materials with the Board (at the address shown below) by the date specified above and send a copy of the response to the petitioner's attorney.

All documents, including the materials due July 26, 2010 or August 23, 2010, must reference the appeal number. **IMPORTANT:** In addition, any envelope or other packaging containing documents sent to the Environmental Appeals Board's mailing address or hand-delivery address, as prescribed below, must bear a complete and accurate return address in the upper left hand corner. The envelope or packaging must also clearly state the case name and appeal number in the lower left hand corner.

Please include with the response a certified index to the administrative record that was compiled in connection with the issuance of the underlying CERCLA Section 106(a) Order. Please also include copies of any documents that are relied on in the response and that have not already been submitted to the Board by the petitioner.

**All documents that are sent through the U.S. Postal Service, Express Mail, hand-delivered, via courier must include the name of the organization, address, facsimile number, telephone number, and an email address, if available.<sup>2</sup>**

Documents that are sent through the U.S. Postal Service (except by Express Mail) **MUST** be addressed to the Environmental Appeals Board's mailing address which is:

U.S. Environmental Protection Agency  
Clerk of the Board  
Environmental Appeals Board 1103B  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Documents that are sent to the Environmental Appeals Board's hand-delivery address (below) through the U.S. Postal Service (except by Express Mail) will be returned to the sender

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the certificate of service, table of contents, and table of authorities, but exclusive of exhibits or attachments, it must also send one paper copy of that document to the Board by U.S. Mail, hand, courier, or commercial delivery service within one business day of the date of the electronic filing. *See id.* at 4-5. Such paper copy must be accompanied by a signed certification stating that it is identical to the electronically filed document. *Id.* at 5. If the combined page length of all of the exhibits or attachments submitted in support of a brief or motion exceeds fifty (50) pages, the requirement to submit a paper copy, and its timing, applies to the entire set of exhibits or attachments. *Id.* Anyone electronically filing exhibits or attachments in support of a brief, motion, or other document should submit them separately from the associated brief or motion. *Id.* at 3.

<sup>2</sup> Mail sent to the Environmental Protection Agency via the U.S. Postal Service may be delayed by a random sterilization procedure applied to mail delivered to the federal government. Parties are encouraged to utilize the Board's e-filing system or non-U.S. Postal Service carriers and the Board's hand-delivery address when filing pleadings with the Board. Additional information regarding mail delivery to the Board is available on the Environmental Appeals Board website (<http://www.epa.gov/eab>) at the Clerk of the Board or Frequently Asked Questions links.

and shall not be considered as filed.

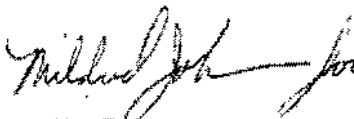
Documents that are hand-carried in person, delivered via courier, mailed by Express Mail, or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) must be delivered to:

U.S. Environmental Protection Agency  
Clerk of the Board, Environmental Appeals Board  
1341 G Street, N.W. Suite 600  
Washington, D.C. 20005

Documents that are hand-carried may be delivered to the Clerk of the Board between 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday (excluding federal holidays). Documents filed electronically may be filed at any time up to 11:59 p.m. Eastern Time on the day the document is required to be filed with the Board.

Thank you for your attention to this matter.

Sincerely,



Erika Durr  
Clerk of the Board

Enclosure

cc w/o encl: Mark E. Johnson  
Stinson Morrison Hecker, LLP  
1201 Walnut Street, Suite 2900  
Kansas City, MO 64106-2150

w/ encl.: Martha R. Steincamp  
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