

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. FEB - 1 2018

ENVIRONMENTAL APPEALS BOARD

In re:)	
Titan Tire Corporation & Dico, Inc.)	Petition No.
(Southern Iowa Mechanical Superfund Site))	CERCLA § 106(b) 10-01
)	
Petitioners.)	
)	
CERCLA Administrative Order)	
No. CERCLA-07-2009-0006)	

JOINT FEBRUARY 1, 2018 STATUS REPORT

Petitioners Titan Tire Corporation and Dico, Inc. ("Petitioners"), 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, Kristen Nazar, Attorney, Office of Regional Counsel, U.S. Environmental Protection Agency Region 7, submit this Joint February 1, 2018 Status Report pursuant to the Environmental Appeals Board's ("EAB") December 5, 2017 Order Continuing Stay of Proceedings.

The parties believe this matter should continue to be stayed pending resolution of the *United States of America v. Dico, Inc. and Titan Tire Corporation* matter in the United States Court of Appeals for the Eighth Circuit, Case No. 17-3462. On January 25, 2018, a motion for extension of time to file Appellant's brief was granted. Appellant's brief is now due on February 26, 2018. The Appeal Briefing Schedule and Docket Summary are attached hereto as Exhibit A.

Dated: February 1, 2018

By: /s/Thomas D. Lupo
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CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2018, the foregoing was filed with the Environmental Appeals Board and on February 1, 2018 has been served by U.S. Mail on counsel of record.

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/s/ Kristen Nazar
ATTORNEY FOR U.S. ENVIRONMENTAL
PROTECTION AGENCY, REGION 7

Exhibit A

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

APPEAL BRIEFING SCHEDULE ORDER

Appeal No. 17-3462 United States v. Dico, et al

Date: November 13, 2017

APPEAL REQUIREMENTS

1. Complete and file immediately:
 - A. Corporate Disclosure Statement. See 8th Cir. R. 26.1A.
 - B. Entry of Appearance Form.
Forms are available at: www.ca8.uscourts.gov/all-forms
2. Prepare the Record on Appeal:
 - A. Within 10 days, confer with opposing counsel and determine the method of Appendix preparation. See FRAP 30 and 8th Cir. R. 30A.
 - B. Within 14 days, order any transcripts required for the appeal and arrange for payment.
If no transcript is required, file a certificate of waiver. See FRAP 10(b). Appellee should order any additional transcripts within 14 days of appellant's order.
 - C. Review the "Record on Appeal" at: www.ca8.uscourts.gov/appeal-preparation-information.
3. Review "Briefing Checklist" and "Pointers on Preparing Briefs" at:
www.ca8.uscourts.gov/appeal-preparation-information.

GENERAL INFORMATION

The following filing dates are established for the appeal. The dates will only be extended upon the filing of a timely motion establishing good cause for an extension of time. An extension of time automatically extends the filing date for the responding or replying party's brief. Dates are advanced if a party files its brief before the due date. Please refer to FRAP 25, FRAP 26 and FRAP 31 for provisions governing filing and service, as well as computing and extending time.

The Federal Rules of Appellate Procedure and the Eighth Circuit's Local Rules may be found at www.ca8.uscourts.gov/rules-procedures

The Practitioner's Handbook and the Court's Internal Operating Procedures may also be found at the same address.

**APPEAL BRIEFING SCHEDULE
FILING DATES:**

Method of Appendix Preparation Notification. **14 days from today**

Designation & Statement of Issues-Appellant **14 days from today**

Designation of Record-Appellee. **10 days from service of appellant's designation**

Transcript **12/26/2017**
(Kelli M Mulcahy)

Appendix (3 copies) **01/05/2018**
(Dico & Titan Tire Corporation)

Appellant Brief with addendum **01/05/2018**
(Dico & Titan Tire Corporation)

Appellee Brief. **30 days from the date the court issues**
the Notice of Docket Activity filing the brief.

Reply Brief **14 days from the date the court issues**
the Notice of Docket Activity filing the brief.

**ALL BRIEFS AND APPENDICES SHOULD BE
FILED WITH THE ST. LOUIS OFFICE**

This case was appealed from

Iowa Southern: 4:10-cv-00503-RP

U.S. Circuit Court of Appeals

US Circuit Court of Appeals - 08th Circuit

17-3462

United States v. Dico, et al

This case was retrieved from the court on Friday, January 26, 2018

Header

Case Number: **17-3462**

Date Filed: **11/13/2017**

Date Full Case Retrieved: **01/26/2018**

NOS Description: **(893) 2893: Environmental Matters; Appeal**

Summary

No Information is Available for this case

Associated Cases

<u>Case Number</u>	<u>Relationship</u>	<u>Lead Case</u>	<u>Member Case</u>	<u>Additional Information</u>
14-2762	Prior cases:			Filed: 07/25/2014 Disposed: 12/10/2015 Disposition: Affirmed In Part and Reversed In Part
16-3478	Prior cases:			Filed: 08/24/2016 Disposed: 10/06/2016 Disposition: Denied

Participants

<u>Litigant</u>	<u>Attorney</u>
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Proceedings

<u>Date</u>	<u>Details</u>
11/13/2017	Civil case docketed. [4599613] [17-3462] (DMW)
11/13/2017	Originating court document filed consisting of notice of appeal, docket entries, Order 9-5-17 and Judgment 9-7-17 and Order of 11-2-17 [4599620] [17-3462] (DMW)
11/13/2017	BRIEFING SCHEDULE SET AS FOLLOWS: Transcript due on or before 12/26/2017. Appendix due 01/05/2018. BRIEF APPELLANTS Dico and Titan Tire Corporation due 01/05/2018. Appellee brief is due 30 days from the date the court issues the Notice of Docket Activity filing the brief of appellant. Appellant reply brief is due 14 days from the date the court issues the Notice of Docket Activity filing the appellee brief. [4599627] [17-3462] (DMW)
11/16/2017	RECORD FILED - HEARING TRANSCRIPT, 1 volumes, Location STL, Comments: Copy do not return to the District Court at end of case, Source Location: USDC / SI, Dt. of Proceeding/Hearing: 03/03/2017, No. of Pgs.: 29, Court Reporter: Mulcahy, Kelli M [4601395] [17-3462] (STL)
11/16/2017	RECORD FILED - TRIAL TRANSCRIPT, 4 volumes, Location STL, Comments: Copies do not return to the District Court at end of case, Source Location: USDC / SI, Dt. of Proceeding/Hearing: 04/03/2017 - 04/06/2017, No. of Pgs.: 731, Court Reporter: Mulcahy, Kelli M [4601405] [17-3462] (STL)
11/16/2017	RECORD FILED - HEARING TRANSCRIPT, 1 volumes, Location STL, Comments: District Court document #93 [Copy do not return to the District Court at end of case], Source Location: USDC / SI, Dt. of Proceeding/Hearing: 08/22/2012, No. of Pgs.: 132, Court Reporter: Mulcahy, Kelli M [4601465] [17-3462] (STL)
11/16/2017	RECORD FILED - TRIAL TRANSCRIPT, 4 volumes, Location STL, Comments: Copies do not return to the District Court at end of case, Source Location: USDC / SI, Dt. of Proceeding/Hearing: 12/02/2013 - 12/05/2013, No. of Pgs.: 795, Court Reporter: Kenkel, Theresa [4601473] [17-3462] (STL)
11/20/2017	CORPORATE disclosure statement filed by Appellants Dico and Titan Tire Corporation. - FOR CAL [4602373] [17-3462] (SHL)
11/27/2017	Certificate of transcript filed by Appellant Titan Tire Corporation. No Transcript[4604063] [17-3462] (SHL)
11/27/2017	METHOD of appendix preparation filed by Appellants Dico and Titan Tire Corporation - Joint Appendix - w/service 11/27/2017 [4604065] [17-3462] (SHL)
12/19/2017	MOTION for extension of time to file brief until 01/26/2018, filed by Mr. Stephen H. Locher for Appellants Dico and Titan Tire Corporation and Mr. Thomas D. Lupo for Appellants Dico and Titan Tire Corporation w/service 12/19/2017. [4612128] [17-3462] (SHL)
12/21/2017	On December 1, 2016, the Federal Rules of Appellate Procedure were amended to require a certificate of compliance for motions filed under Rule 27, certifying that the document complies with the type-volume limitations and stating the number of words in the document. Your recently filed motion did not contain this certificate of compliance. No action will be taken on your motion for extension of time to file brief, , submitted by Mr. Stephen H. Locher and Mr. Thomas D. Lupo in 17-3462 , pending the filing of a certificate of compliance using the 'Certificate of Compliance' event. Please do not refile your motion [17-3462] (MDS)
12/21/2017	CERTIFICATE OF COMPLIANCE filed by Mr. Stephen H. Locher for Appellants Dico and Titan Tire Corporation and Mr. Thomas D. Lupo for Appellants Dico and Titan Tire Corporation correcting motion filed by null. [4613172] [17-3462] (SHL)
12/21/2017	CLERK ORDER:Granting motion for extension of time to file brief filed by Mr. Stephen H. Locher and Mr. Thomas D. Lupo. Brief of Dico and Titan Tire Corporation due 01/26/2018. Appendix due on 01/26/2018 [4613217] [17-3462] (MDS)
12/22/2017	APPEARANCE filed by Thekla Hansen-Young for Appellee United States of America w/service 12/22/2017 [4613426] [17-3462] (TH)
01/23/2018	MOTION for extension of time to file brief until 02/26/2018, filed by Attorney Mr. Stephen H. Locher for Appellants Titan Tire Corporation and Dico w/service 01/24/2018. [4622712] [17-3462]--[Edited 01/25/2018 by MDS - Reason: Edited to correct requested date.] (SHL)
01/24/2018	CERTIFICATE OF COMPLIANCE filed by Attorney Mr. Stephen H. Locher for Appellants Dico and Titan Tire Corporation correcting. [4623116] [17-3462] (SHL)

01/25/2018 CLERK ORDER:Granting motion for extension of time to file brief filed by Mr. Stephen H. Locher. Brief of Dico and Titan Tire Corporation due 02/26/2018. Appendix due on 02/26/2018 [4623338] [17-3462] (MDS)

Pending Motion

No Information is Available for this case

Brief

No Information is Available for this case

Rehearings

No Information is Available for this case

History

No Information is Available for this case

Additional Case

Additional Case Information

Civil - United States as a party -

Appeal from: U.S. District Court for the Southern District of Iowa - Des Moines

District: 0863 Division: 4 CaseNumber: 4:10-cv-00503-RP DateFiled: 10/26/2010

Court Reporter: Kelli M Mulcahy

Trial Judge: Robert W. Pratt , U.S. District Judge

Judgement Date: 09/07/2017

Date NOA Filed: 11/02/2017

