

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

In re:)	
)	
Land O'Lakes, Inc. (Hudson Oil Refinery Superfund Site))	CERCLA § 106(b) Petition No. 15-01
)	
Docket No. 06-16-08)	
)	

**FIFTH ORDER CONTINUING STAY OF PROCEEDINGS AND
 REQUIRING ADDITIONAL STATUS REPORTS**

Pursuant to the Environmental Appeals Board's ("Board") April 10, 2018 Fourth Order Continuing Stay of Proceedings And Requiring Additional Status Reports ("April 10 Order"), the parties in the above-captioned appeal filed the last scheduled joint status report with the Environment Appeals Board ("Board") on January 3, 2020. As noted in the April 10 Order, "[w]ith the filing of the (U.S.) Cost Recovery Case in District Court, the posture of this Petition is now similar to others the Board has stayed pending the outcome of the federal District Court proceedings involving competing liability claims." April 10 Order at 1. The parties' January 3, 2020 status report indicates that the competing liability claims remain active in the federal District Court cost recovery litigation and a copy of an amended case management scheduling order is attached to the status report. Among other items, the status report indicates that the trial in the cost recovery litigation is scheduled for September 2020.

Therefore, the Board continues the stay of proceedings in CERCLA § 106(b) Petition Number 15-01 until such time as the District Court renders a decision on the question of Land O'Lakes' liability for contamination in the cost recovery case, or liability is determined in other related litigation. Within two weeks after any liability decision, the Region and Land O'Lakes

shall submit a status report advising the Board of the substance of the decision and setting forth recommended next steps for orderly resolution of the instant Petition. The parties shall immediately notify the Board if the currently scheduled trial date for the cost recovery litigation is changed. Additionally, the parties also shall apprise the Board within two weeks of any settlement involving issues presented in the Petition pending before the Board.

Based on the current District Court litigation schedule, the Board also requires additional status reports, as described in the prior stay orders, on the following dates: November 2, 2020 and January 4, 2021. Any previously ordered deadlines continue to be held in abeyance and no other issues will be addressed until further Order of the Board.

The Board reserves its right to lift the stay or take other appropriate action in the above-captioned Petition prior to conclusion of the cost recovery case or related litigation, or at any other time in accordance with the Board's responsibility to manage its docket.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: **Jan 09 2020**

By: 
Mary Kay Lynch
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the forgoing *Fifth Order Staying Proceedings and Requiring Additional Status Reports* in the matter of Land O'Lakes, Inc. (Hudson Oil Refinery Superfund Site), CERCLA § 106(b) Petition No. 15-01 were sent to the following persons in the manner indicated:

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Dated: Jan 09 2020



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