

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

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)	

**ORDER DIRECTING CLARIFICATION
 AND CONTINUING STAY OF PROCEEDINGS**

On October 31, 2019, the parties to the above-captioned appeal filed a joint status report with the Environmental Appeals Board. The report notes that the Board’s April 26, 2019 *Order Continuing Stay of Proceedings and Notifying Parties of Service by E-Mail* requires them to submit quarterly status reports regarding the status of parallel proceedings in the United States Court of Appeals for the Eighth Circuit. Specifically, the parties must “inform the Board of the outcome of the [Eighth Circuit’s] proceedings and recommend next steps for orderly resolution of the present appeal.”

The parties’ October status report informs the Board of the outcome of the Eighth Circuit’s proceedings, repeating information submitted in a prior August 27, 2019 status report, namely that the Eighth Circuit issued its mandate on August 16, 2019, affirming liability. The October report, however, does not “recommend next steps for orderly resolution of the present appeal.” The prior August report had stated that Titan Tire Corporation and Dico, Inc. intended to file a petition for writ of certiorari to the United States Supreme Court and therefore recommended that the existing stay of proceedings before the Board continue pending a decision

by the Supreme Court. The report further suggested that “[w]hen the Supreme Court issues a decision on the petition for writ of certiorari, the Board will be updated.”

The October 31, 2019 status report does not refresh these recommendations or suggest any other path forward for the Board’s proceedings in CERCLA § 106(b) Petition No. 10-01.

At this juncture, the Board requires information to assist in deciding how best to proceed with this matter.


Accordingly, the parties are directed to file a status report with the Board on or before **Wednesday, December 4, 2019**, informing the Board of the status of the parallel federal litigation, including whether and when Titan Tire and Dico intend to file or have filed a petition for writ of certiorari with the Supreme Court or whether they have decided not to file such a petition, and recommending next steps for orderly resolution of the Board appeal.

The existing stay of proceedings in CERCLA § 106(b) Petition No. 10-01 will continue in effect until **Wednesday, December 18, 2019**. At that point, informed by the information the parties provide on or before December 4, 2019, the Board will issue a new order directing a continuation of the stay, the submittal of status reports at particular intervals, or other appropriate measures.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Date: **Nov 21 2019**

By: 
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Directing Clarification and Continuing Stay of Proceedings** in the matter of *Titan Tire Corp. & Dico, Inc. (Southern Iowa Mechanical Site)*, CERCLA § 106(b) Petition No. 10-01, were sent to the following persons in the manner indicated:

By Electronic Mail:

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Date: **Nov 21 2019**



Eurika Durr
Clerk of the Board