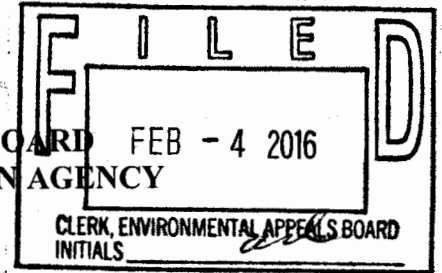


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



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 REQUIRING
SUPPLEMENTAL STATUS REPORT(S)**

On January 4, 2016, Region 7 (“Region”) of the U.S. Environmental Protection Agency filed a status report in the above-captioned matter, in response to the Environmental Appeals Board’s May 22, 2014 *Second Order Continuing Stay of Proceedings*. That Board Order directed the parties to inform the Board, within two weeks of the conclusion of parallel federal appellate proceedings before the U.S. Court of Appeals for the Eighth Circuit, of the outcome of those proceedings. The Order also directed the parties to recommend “next steps for orderly resolution” of this Board appeal, denoted CERCLA § 106(b) Petition No. 10-01, which has been stayed since December 10, 2010. Petitioners Dico, Inc., and Titan Tire Corporation neither joined the Region’s status report nor filed their own version of such a report, despite the Board’s explicit direction that they provide such input to inform decisions regarding the status of their case.

The Eighth Circuit issued its decision on December 10, 2015, reversing the district court’s summary judgment orders on “arranger” liability and punitive damages and affirming the court’s orders finding EPA cleanup order violations and assessing civil penalties. *United States*

v. *Dico, Inc.*, No. 14-2762, 2015 U.S. App. LEXIS 21345 (8th Cir. Dec. 10, 2015). On February 1, 2016, the Eighth Circuit issued its mandate in the case.

Region 7's January status report summarizes the outcome of the appellate case and then states that, "[s]ubject to possible appeals of the appellate court decision or motions for reconsideration of the appellate decision or settlement of the matter, the district court will hold a trial on the 'intent to dispose' issue." Absent from the Region's report are any recommendations regarding "next steps" for orderly resolution of this Board appeal. Dico and Titan Tire are similarly silent on this point.

To assist the Board in determining whether to continue the existing stay of proceedings in CERCLA § 106(b) Petition No. 10-01 or to return the matter to active litigation status on the Board's docket, the Board directs the parties to file a supplemental status report (jointly or separately, as they choose) no later than **Tuesday, March 1, 2016**. The supplemental report or reports must advise the Board as to whether the parties believe the stay should be continued and provide a rationale supporting the recommended course of action.

As before, the Board reserves its right to lift the present stay or take other appropriate actions prior to conclusion of any further federal court proceedings, in accordance with its administrative responsibility to manage its docket.

So ordered.

Dated: February 4, 2016

ENVIRONMENTAL APPEALS BOARD

By: Kathie A. Stein
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Requiring Supplemental Status Report(s)** 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:

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Date: FEB - 4 2016



Annette Duncan
Secretary