

**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 REINSTATING STAY OF PROCEEDINGS

On September 25, 2017, Region 7 of the U.S. Environmental Protection Agency filed a status report in the above-captioned case pursuant to the Environmental Appeals Board’s *Order Continuing Stay of Proceedings*, dated April 27, 2016. The Region informed the Board that on September 5, 2017, the U.S. District Court for the Southern District of Iowa ruled that Dico, Inc. and Titan Tire Corporation arranged for the disposal of a hazardous substance in violation of 42 U.S.C. § 9607(a). The District Court further held Dico and Titan Tire jointly and severally liable for response costs and punitive damages totaling nearly \$11 million. The Region noted that Dico and Titan Tire have sixty days “after entry of the judgment or order appealed from to appeal.” Status Rep. at 1. The Region did not suggest “next steps” for achieving “orderly resolution” of the Board’s parallel case, nor did it provide any information beyond that summarized above. To date, the Board also has not received any status report or other filing from Dico and Titan Tire pertaining to the District Court matter.

The issues presented to the Board in CERCLA § 106(b) Petition No. 10-01 have long been stayed, pending resolution of the parallel proceedings in federal court. That stay ended with the final resolution mentioned above. The Board hereby reinstates the stay of proceedings,


through **Thursday, November 30, 2017**. In the interim, the Region is ordered to serve its September 25, 2017 status report on counsel for Dico and Titan Tire, as required by Part II.B of the Board's CERCLA § 106(b) guidance. The Region, Dico, and Titan Tire then are directed to submit to the Board, preferably jointly but separately if need be, another status report on or before **Monday, November 20, 2017**. The report should inform the Board as to whether an appeal of the District Court's rulings has been or will be filed and recommend next steps for orderly resolution of the present Board appeal.

The Board reserves its right to lift the stay or take other appropriate action in the above-captioned appeal, in accordance with its administrative responsibility to manage its docket.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: SEP 27 2017

By: 
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Reinstating 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:

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Date: SEP 27 2017



Annette Duncan
Secretary