

**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 CONTINUING STAY OF PROCEEDINGS
AND NOTIFYING PARTIES OF SERVICE BY E-MAIL**

On April 17, 2019, the parties to the above-captioned appeal filed a joint status report with the Environmental Appeals Board. The report states that on April 11, 2019, the U.S. Court of Appeals for the Eighth Circuit issued an opinion in *United States v. Dico, Inc. & Titan Tire Corp.*, Case No. 17-3462, that is “favorable to the United States and affirmed the previously issued judgment” of the U.S. District Court for the Southern District of Iowa. Status Rep. at 1.

The parties report that Dico and Titan Tire plan to file a petition for rehearing en banc with the Eighth Circuit. They propose that the proceedings before the Board in CERCLA § 106(b) Petition No. 10-01 continue to be stayed pending resolution of Dico and Titan Tire’s petition and state that, “if an en banc hearing is granted, the Board will be updated following the related hearing and outcome.” *Id.*

For good cause shown, the existing stay of proceedings in CERCLA § 106(b) Petition No. 10-01 is continued. For the duration of the stay, Dico, Titan Tire, and Region 7 of the U.S. Environmental Protection Agency are directed to submit to the Board (preferably jointly but separately if need be) quarterly status reports, beginning August 1, 2019, and continuing every three months (i.e., on or around November 1, February 1, May 1, and August 1 of each year)

advising the Board of the status of the Eighth Circuit litigation. Within twenty-one days after the Eighth Circuit denies rehearing en banc or, if rehearing en banc is granted, within twenty-one days after the Eighth Circuit issues a decision en banc, the parties must inform the Board of the outcome of the proceedings and recommend next steps for orderly resolution of the present appeal. The stay will remain in effect until such time as the Board issues an order lifting the stay.


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

Finally, the Board may use electronic mail (e-mail address: Clerk_EAB@epa.gov) to serve orders and decisions in this matter at the addresses provided by the parties. Parties shall promptly file a notice in this matter informing the Board and the other parties if their e-mail addresses change.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: April 26, 2019

By: 
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

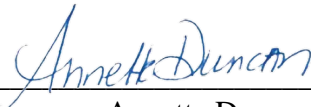
I hereby certify that copies of the foregoing **Order Continuing Stay of Proceedings and Notifying Parties of Service by E-Mail** in the matter of *Titan Tire Corp. & Dico, Inc. (Southern Iowa Mechanical Site)*, CERCLA § 106(b) Petition No. 10-01, were sent to the following persons in the manner indicated:

By Electronic Mail:

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Date: **Apr 26 2019**



Annette Duncan
Administrative Specialist