

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



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

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

Pursuant to the Environmental Appeals Board's ("Board") April 6, 2017 Third Order Continuing Stay of Proceedings And Requiring Additional Status Reports ("April 6 Order"), the parties in the above-captioned appeal filed the last scheduled joint status report with the Environment Appeals Board ("Board") on March 29, 2018. As noted in the April 6 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 6 Order at 1-2. The parties' March 29, 2018 status report indicates that the competing liability claims remain active in the federal District Court cost recovery litigation and a copy of the Pretrial schedule is attached to the status report.

Therefore, as previously indicated, 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 also shall apprise the Board within two weeks of any settlement involving issues presented in the Petition pending before the Board.

The Board's prior stay orders have required the parties to file quarterly status reports "clearly and precisely articulating where the action before the District Court stands, the status of settlement negotiations, and any other information relevant to the matter pending before the Board." This includes information about other relevant litigation involving the parties. The Board has further required the parties to list any significant pleadings, motions, or orders filed in the District Court. These reports have assisted the Board in its consideration of this Petition. As noted above, the Board's most recent stay order scheduled the last status report to be filed by March 30, 2018, and because this matter, in particular the competing liability issue, is still pending before the District Court, the stay remains in effect. The Board hereby requires additional status reports, as described in the prior stay orders, on the following dates: June 29, 2018, October 1, 2018, January 7, 2019, April 5, 2019, July 8, 2019, October 4, 2019, and January 6, 2020, including apprising the Board of the status of any settlement negotiations. 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: APR 10 2018

By: 
Mary Kay Lynch
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the forgoing *Fourth Order Continuing Stay of 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: APR 10 2010



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