

**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 Administrative Order
No. CERCLA-07-2009-0006

CERCLA § 106(b) Petition No. 10-01

JOINT FEBRUARY 1, 2021 STATUS UPDATE

Petitioners Titan Tire Corporation and Dico, Inc. (“Dico”), by and through their attorneys, Thomas D. Lupo and Michael F. Iasparro of Hinshaw & Culbertson LLP, and Respondent, U.S. Environmental Protection Agency, by and through its attorney, Kristen Nazar, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 7, submit this Joint February 1, 2021 status update. This status report is being submitted pursuant to the Environmental Appeals Board’s (“Board”) May 20, 2020 Order, which states:

For the duration of the stay, Dico, Inc., Titan Tire Corporation, and Region 7 of the U.S. Environmental Protection Agency are directed to submit to the Board quarterly status reports, beginning August 1, 2020, and continuing every three months thereafter (i.e., on or around November 1, February 1, May 1, and August 1) advising the Board of the status of their settlement negotiations. The parties must notify the Board within seven days of the lodging of a consent decree in the U.S. District Court for the Southern District of Iowa. At that same time, the parties must recommend next steps for orderly resolution of the appeal still pending before the Board. The stay will remain in effect until such time as the Board issues an order lifting the stay.

On September 15, 2020, the consent decree was lodged with the U.S. District Court for the Southern District of Iowa in *United States v. Dico*, 4:10-CV-00503 (S.D. Iowa). On September 16, 2020 the parties filed with the Board a notice of lodging of the consent decree, requesting that the Board continue the stay, pending conclusion of the public notice and comment period and the entry of the consent decree by the Southern District of Iowa. The public

comment period has now closed, and no comments were received. On October 23, 2020, the United States filed in the district court a joint motion to enter the consent decree. On November 2, 2020, the Court requested a joint submission from the Parties. The joint submission was filed on December 1, 2020. The motion to enter is still pending before the court.

The parties request that the Board continue the stay pending a ruling by the U.S. District Court on the motion to enter the consent decree. The parties will notify the Board within seven days of entry of the consent decree. Pursuant to the lodged consent decree, no later than 30 days after the effective date, Dico will withdraw its CERCLA Section 106(b) petition and agree not to reinstate such petition.

Dated: February 1, 2021

By: /s/ Thomas D. Lupo
Thomas D. Lupo
Michael F. Iasparro
Hinshaw & Culbertson LLP
151 North Franklin Street, Suite 2500
Chicago, IL 60606
Phone: (312) 704-3000
Fax: (312) 704-3001
E-mail: tlupo@hinshawlaw.com
miasparro@hinshawlaw.com

ATTORNEYS FOR PETITIONERS

By: /s/ Kristen Nazar
Kristen Nazar
Attorney-Adviser
Office of Regional Counsel
U.S. Environmental Protection
Agency, Region 7
11201 Renner Blvd.
Lenexa, KS 66219
Phone: (913) 551-7450
Fax: (913) 551-7925
Email: nazar.kristen@epa.gov

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2021, the foregoing was filed with the Environmental Appeals Board and on February 1, 2021 has been served by email on counsel of record.

Thomas D. Lupo and Michael F. Iasparro
Hinshaw & Culbertson LLP
151 North Franklin Street, Suite 2500
Chicago, IL 60606
Email: tlupo@hinshawlaw.com, miasparro@hinshawlaw.com

/s/ Kristen Nazar
ATTORNEY FOR U.S. ENVIRONMENTAL
PROTECTION AGENCY, REGION 7