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BEFORE THE ENVIRONMENTAL APPEALS BOARD

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

2015 DEC 30 PM 2:44

In error
EPW 114116

ENVIR. APPEALS BOARD

ENVIR. APPEALS BOARD

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

U.S. ENVIRONMENTAL PROTECTION AGENCY STATUS REPORT

The Respondent, Region VII of the U.S. Environmental Protection Agency (“EPA”), by and through its Office of Regional Counsel, submits this Status Report pursuant to the Environmental Appeals Board’s (“EAB”) May 22, 2014, Second Order Continuing Stay of Proceedings. In the May 22, 2014 Order, the EAB requested a quarterly status report advising the EAB of the status of appellate litigation for the matter initiated in the United States District Court for the Southern District of Iowa and appealed to the Eighth Circuit Court of Appeals.

Oral arguments were held on June 11, 2015 before the United States Court of Appeals in St. Paul, Minnesota. On December 10, 2015, the United States Court of Appeals for the Eighth Circuit issued its decision in United States of America, Plaintiff – Appellee v. Dico, Inc.; Titan Tire Corporation, Defendants – Appellants (No. 14-2762). The Court reversed the district’s court’s summary judgment order with respect to “arranger” liability under CERCLA, finding that the record did not demonstrate as a matter of law that Dico intended to dispose of hazardous substance and that Dico’s “intent” to dispose should not have been decided at summary judgment. The court affirmed the summary judgment order for civil penalties for violation of the EPA order. Subject 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.

Dated this 4th day of JANUARY 2016.

Respectively Submitted

By:

 FOR _____

J. Scott Pemberton

Senior Assistant Regional Counsel

Office of Regional Counsel

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