

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

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AUG 27 2019

ENVIRONMENTAL APPEALS BOARD

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

JOINT AUGUST 27, 2019 STATUS REPORT

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, Katherine Gully, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 7, submit this Joint Status Report. This status report is being submitted pursuant to the Environmental Appeals Board’s (“Board”) April 26, 2019 *Order Continuing Stay of Proceedings and Notifying Parties of Service by E-Mail*, which requires the parties to notify the Board within twenty-one days after the Eighth Circuit denies rehearing en banc and recommend next steps for orderly resolution of the present appeal.

On August 6, 2019, the Eighth Circuit denied Dico’s *Petition for Panel Rehearing and for Rehearing En Banc*. On August 13, 2019, Dico filed a motion to stay the mandate with the Eighth Circuit. On August 14, 2019, the Eighth Circuit denied Dico’s motion, and on August 16, 2019, the mandate issued.

Dico intends to file a petition for writ of certiorari with the United States Supreme Court, seeking review of the Eighth Circuit’s decision affirming the district court’s finding of liability. Accordingly, the parties propose that the existing stay of proceedings of this matter continue

pending a decision by the Supreme Court. When the Supreme Court issues a decision on the petition for writ of certiorari, the Board will be updated.

Dated: August 27, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2019, the foregoing was filed with the Environmental Appeals Board and on August 27, 2019 has been served by U.S. Mail on counsel of record.

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