

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

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MAY - 1 2018

ENVIRONMENTAL APPEALS BOARD

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In re:	)	
Titan Tire Corporation & Dico, Inc.	)	Petition No.
(Southern Iowa Mechanical Superfund Site)	)	CERCLA § 106(b) 10-01
	)	
Petitioners.	)	
	)	
CERCLA Administrative Order	)	
No. CERCLA-07-2009-0006	)	

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**JOINT MAY 1, 2018 STATUS REPORT**

Petitioners Titan Tire Corporation and Dico, Inc. ("Petitioners"), 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, Attorney, Office of Regional Counsel, U.S. Environmental Protection Agency Region 7, submit this Joint May 1, 2018 Status Report pursuant to the Environmental Appeals Board's ("EAB") December 5, 2017 Order Continuing Stay of Proceedings.

The parties believe this matter should continue to be stayed pending resolution of the *United States of America v. Dico, Inc. and Titan Tire Corporation* matter in the United States Court of Appeals for the Eighth Circuit, Case No. 17-3462. On April 23, 2018, a motion for extension of time to file the United States' brief was granted. The United States' brief is now due on May 30, 2018. The appellate Docket Summary is attached hereto as Exhibit A.

Dated: April 30, 2018

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ATTORNEY FOR RESPONDENT

**CERTIFICATE OF SERVICE**

I hereby certify that on April 30, 2018, the foregoing was filed with the Environmental Appeals Board and on April 30, 2018 has been served by U.S. Mail on counsel of record.

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

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**This case was appealed from**

Iowa Southern: 4:10-cv-00503-RP

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**U.S. Circuit Court of Appeals**

**US Circuit Court of Appeals - 08th Circuit**

**17-3462**

**United States v. Dico, et al**

**This case was retrieved from the court on Tuesday, April 24, 2018**

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**Header**

Case Number: **17-3462**

Date Filed: **11/13/2017**

Date Full Case Retrieved: **04/24/2018**

NOS Description: **(893) 2893: Environmental Matters; Appeal**

**Summary**

**No Information is Available for this case**

**Associated Cases**

<u>Case Number</u>	<u>Relationship</u>	<u>Lead Case</u>	<u>Member Case</u>	<u>Additional Information</u>
14-2762	Prior cases:			Filed: 07/25/2014 Disposed: 12/10/2015 Disposition: Affirmed In Part and Reversed In Part
16-3478	Prior cases:			Filed: 08/24/2016 Disposed: 10/06/2016 Disposition: Denied

**Participants**

**Litigant**

**Attorney**

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## Proceedings

<u>Date</u>	<u>Details</u>
11/13/2017	Civil case docketed. [4599613] [17-3462] (DMW)
11/13/2017	Originating court document filed consisting of notice of appeal, docket entries, Order 9-5-17 and Judgment 9-7-17 and Order of 11-2-17 [4599620] [17-3462] (DMW)
11/13/2017	BRIEFING SCHEDULE SET AS FOLLOWS: Transcript due on or before 12/26/2017. Appendix due 01/05/2018. BRIEF APPELLANTS Dico and Titan Tire Corporation due 01/05/2018. Appellee brief is due 30 days from the date the court issues the Notice of Docket Activity filing the brief of appellant. Appellant reply brief is due 14 days from the date the court issues the Notice of Docket Activity filing the appellee brief. [4599627] [17-3462] (DMW)
11/16/2017	RECORD FILED - HEARING TRANSCRIPT, 1 volumes, Location STL, Comments: Copy do not return to the District Court at end of case, Source Location: USDC / SI, Dt. of Proceeding/Hearing: 03/03/2017, No. of Pgs.: 29, Court Reporter: Mulcahy, Kelli M [4601395] [17-3462] (STL)
11/16/2017	RECORD FILED - TRIAL TRANSCRIPT, 4 volumes, Location STL, Comments: Copies do not return to the District Court at end of case, Source Location: USDC / SI, Dt. of Proceeding/Hearing: 04/03/2017 - 04/06/2017, No. of Pgs.: 731, Court Reporter: Mulcahy, Kelli M [4601405] [17-3462] (STL)
11/16/2017	RECORD FILED - HEARING TRANSCRIPT, 1 volumes, Location STL, Comments: District Court document #93 [Copy do not return to the District Court at end of case], Source Location: USDC / SI, Dt. of Proceeding/Hearing: 08/22/2012, No. of Pgs.: 132, Court Reporter: Mulcahy, Kelli M [4601465] [17-3462] (STL)
11/16/2017	RECORD FILED - TRIAL TRANSCRIPT, 4 volumes, Location STL, Comments: Copies do not return to the District Court at end of case, Source Location: USDC / SI, Dt. of Proceeding/Hearing: 12/02/2013 - 12/05/2013, No. of Pgs.: 795, Court Reporter: Kenkel, Theresa [4601473] [17-3462] (STL)
11/20/2017	CORPORATE disclosure statement filed by Appellants Dico and Titan Tire Corporation. - FOR CAL [4602373] [17-3462] (SHL)
11/27/2017	Certificate of transcript filed by Appellant Titan Tire Corporation. No Transcript[4604063] [17-3462] (SHL)
11/27/2017	METHOD of appendix preparation filed by Appellants Dico and Titan Tire Corporation - Joint Appendix - w/service 11/27/2017 [4604065] [17-3462] (SHL)
12/19/2017	MOTION for extension of time to file brief until 01/26/2018, filed by Mr. Stephen H. Locher for Appellants Dico and Titan Tire Corporation and Mr. Thomas D. Lupo for Appellants Dico and Titan Tire Corporation w/service 12/19/2017. [4612128] [17-3462] (SHL)
12/21/2017	On December 1, 2016, the Federal Rules of Appellate Procedure were amended to require a certificate of compliance for motions filed under Rule 27, certifying that the document complies with the type-volume limitations and stating the number of words in the document. Your recently filed motion did not contain this certificate of compliance. <b> No action will be taken on your <b> motion for extension of time to file brief, , submitted by Mr. Stephen H. Locher and Mr. Thomas D. Lupo in 17-3462 , pending the filing of a certificate of compliance using the 'Certificate of Compliance' event. Please do not refile your motion</b> [17-3462] (MDS)
12/21/2017	CERTIFICATE OF COMPLIANCE filed by Mr. Stephen H. Locher for Appellants Dico and Titan Tire Corporation and Mr. Thomas D. Lupo for Appellants Dico and Titan Tire Corporation correcting motion filed by null. [4613172] [17-3462] (SHL)
12/21/2017	CLERK ORDER:Granting motion for extension of time to file brief filed by Mr. Stephen H. Locher and Mr. Thomas D. Lupo. Brief of Dico and Titan Tire Corporation due 01/26/2018. Appendix due on 01/26/2018 [4613217] [17-3462] (MDS)
12/22/2017	APPEARANCE filed by Thekla Hansen-Young for Appellee United States of America w/service 12/22/2017 [4613426] [17-3462] (TH)
01/23/2018	MOTION for extension of time to file brief until 02/26/2018, filed by Attorney Mr. Stephen H. Locher for Appellants Titan Tire Corporation and Dico w/service 01/24/2018. [4622712] [17-3462]--[Edited 01/25/2018 by MDS - Reason: Edited to correct requested date.] (SHL)
01/24/2018	CERTIFICATE OF COMPLIANCE filed by Attorney Mr. Stephen H. Locher for Appellants Dico and Titan Tire Corporation correcting. [4623116] [17-3462] (SHL)

- 01/25/2018 CLERK ORDER:Granting motion for extension of time to file brief filed by Mr. Stephen H. Locher. Brief of Dico and Titan Tire Corporation due 02/26/2018. Appendix due on 02/26/2018 [4623338] [17-3462] (MDS)
- 02/19/2018 MOTION to file an overlength brief of up to 16,000 words in length, filed by Attorney Mr. Stephen H. Locher for Appellants Dico and Titan Tire Corporation w/service 02/19/2018. [4631339] [17-3462] (SHL)
- 02/21/2018 CLERK ORDER: Granting motion to file an overlength brief filed by Mr. Stephen H. Locher for Appellants Dico and Titan Tire Corporation. Motion to file brief in excess of limits set forth in FRAP Rule 32 (a)(A) and (B) is granted. Brief of 16,000 words may be filed. [4632059] [17-3462] (MER)
- 02/26/2018 APPELLANT brief of Dico and Titan Tire Corporation submitted for review. The time for filing the subsequent brief (if any) does not begin to run until the brief has been approved and filed. To open/view this brief, you must first login to CM/ECF and then open the document link in your Notice of Docket Activity. [4633713] [17-3462] (SHL)
- 02/26/2018 Addendum of APPELLANT submitted for review by Dico and Titan Tire Corporation. To open/view this addendum, you must first login to CM/ECF and then open the document link in your Notice of Docket Activity. [4633715] [17-3462] (SHL)
- 02/27/2018 <b>BRIEF FILED </b>- APPELLANT BRIEF filed by Dico and Titan Tire Corporation. w/service 02/27/2018 , Length: 15,848 words <b> 10 COPIES OF PAPER BRIEFS WITHOUT THE APPELLATE PDF HEADER FROM Dico and Titan Tire Corporation due 03/05/2018 WITH certificate of service for paper briefs </b> . Brief of United States of America due on 03/29/2018 </b> [4634198] [17-3462] (AMT)
- 02/27/2018 <b>ADDENDUM </b> of APPELLANT FILED by Appellants Dico and Titan Tire Corporation , w/service 02/27/2018 [4634199] [17-3462] (AMT)
- 03/05/2018 RECORD FILED - APLNT/PET APPENDIX, 4 volumes, Location STL, 1 boxes, Comments: 3 copies. [4636061] [17-3462] (MDS)
- 03/05/2018 Paper copies Appellant/Petitioner Brief, filed by Dico and Titan Tire Corporation 10 paper copies received. <b> </b> [4636739] [17-3462] (MDS)
- 03/07/2018 Paper copies , Addendum filed by Dico and Titan Tire Corporation 10 paper copies received. [4636731] [17-3462] (MDS)
- 03/12/2018 MOTION for extension of time to file brief until 05/30/2018, filed by Attorney Mr. Thekla Hansen-Young for Appellee United States of America w/service 03/12/2018. [4638401] [17-3462] (TH)
- 03/13/2018 CLERK ORDER:Granting in Part motion for extension of time to file brief filed by Mr. Thekla Hansen-Young [4638705] Brief of United States of America due 04/30/2018. [4638705] [17-3462] (MDS)
- 04/20/2018 MOTION for extension of time to file brief until 05/30/2018, filed by Attorney Mr. Thekla Hansen-Young for Appellee United States of America w/service 04/20/2018. [4652863] [17-3462] (TH)
- 04/23/2018 CLERK ORDER:Granting motion for extension of time to file brief filed by Mr. Thekla Hansen-Young. Brief of United States of America due 05/30/2018. [4653346] [17-3462] (MDS)

### Pending Motion

**No Information is Available for this case**

### Brief

**No Information is Available for this case**

### Rehearings

**No Information is Available for this case**

### History

**No Information is Available for this case**

## Additional Case

### **Additional Case Information**

Civil - United States as a party -

Appeal from: U.S. District Court for the Southern District of Iowa - Des Moines

District: 0863 Division: 4 CaseNumber: 4:10-cv-00503-RP DateFiled: 10/26/2010

Court Reporter: Kelli M Mulcahy

Trial Judge: Robert W. Pratt , U.S. District Judge

Judgement Date: 09/07/2017

Date NOA Filed: 11/02/2017