



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

ENVIRONMENTAL APPEALS BOARD

OCT 27 2009

Cecilia Tapia, Director
Superfund Division
U.S. EPA, Region 7
901 N. 5th Street
Kansas City, KS 66101

Re: Southern Iowa Mechanical Site (SIM)
Docket Number: CERCLA-07-2009-0006
Petition Number: CERCLA 106(b) 09-01

Dear Mr. Tapia:

This is to advise you that the Environmental Appeals Board Received on October 23, 2009, a petition for reimbursement filed by Mark E. Johnson, Attorney, Stinson, Morrison, Hecker LLP on behalf of Titan Tire Corporation and Dico, Inc, pursuant to CERCLA Section 106(b). The petition seeks reimbursement of costs incurred by the petitioners.

A copy of the petition can be found on the Board's website at http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/8ff9a5a2290f7f7852576580064d886!Open Document, listing all the documents filed in the case. If you have any difficulty accessing this document, please let me know

The Board has issued a revised guidance document, dated November 10, 2004, describing the Board's procedures for addressing Section 106(b) reimbursement petitions. A copy of the Board's guidance is enclosed.

Accordingly, please have your staff prepare and submit a response to the petition, as described more fully in Section IV. A of the Board's guidance. If your response challenges the petitioner's eligibility to seek reimbursement, without regard to the merits of the reimbursement claim, the response should be filed not later than November 30, 2009 . If, however, your response does address the merits of the reimbursement claim, the response should be filed not later than December 31, 2009. In either event, please file an original (signed in blue ink) and two copies of the response with the Board at the address shown below, and send a copy of the

response to the petitioners' attorney.¹

Please include with the response a certified index to the administrative record that was compiled in connection with the issuance of the underlying CERCLA Section 106(a) Order. Please also include copies of any documents that are relied on in the response and that have not already been submitted to the Board by the petitioner.

Mailing and Hand Delivery Instructions²

All documents that are sent through the U.S. Postal Service, Express Mail, hand-delivered, via courier must include the name of the organization, address, facsimile number, telephone number, and an email address, if available.

Documents that are sent through the U.S. Postal Service (except by Express Mail) **MUST** be addressed to the Environmental Appeals Board's mailing address which is:

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board, 1103B
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Documents that are sent to the Environmental Appeals Board's hand-delivery address (below) through the U.S. Postal Service (except by Express Mail) will be returned to the sender and shall not be considered as filed.

¹The Environmental Appeals Board has an innovative system that allows parties to submit copies of documents, including exhibits, electronically in PDF. Instructions on registration and document submission are available by using the "Electronic Submission" link on the Board's website. Please note that, at the present time, electronic submissions will not be considered a substitute for filing an original document with the Clerk of the Board. The Clerk of the board still must actually receive the original document by the document's due date in order for it to be timely filed. However, Agency offices and private parties that use this system for submitting electronic copies will be excused from the requirement to submit multiple paper copies with their original filing.

²The Environmental Protection Agency is experiencing delays in delivery of mail from the U.S. Postal Service. These delays are due to a new sterilization procedure applied to all U.S. Postal Service mail delivered to the federal government. Parties are encourage to utilize non-U.S. Postal Service carriers and the Board's hand-delivery address when filing time-sensitive pleadings with the Board. Additional information regarding mail delivery to the Board is available on the Environmental Appeals Board website (www.epa.gov/eab) at the Clerk of the Board or Frequently Asked Questions.

Hand Delivery Address

Documents that are **hand-carried** in person, delivered via courier, mailed by Express Mail, or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) **MUST** be delivered to:

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W. Suite 600
Washington, D.C. 20005

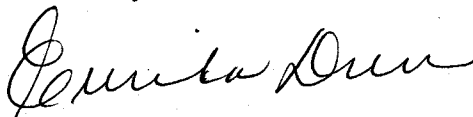
Documents that are hand-carried may be delivered to the Clerk of the Board between 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday (excluding federal holidays).

Filing Requirements

IMPORTANT: All documents, including the materials due November 30, 2009 or December 31, 2009, must reference the petition number. In addition, any envelope or other packaging containing documents sent to the address, as prescribed above, must bear a complete and accurate return address in the upper left hand corner. The envelope or packaging must also clearly state the case name and case identifier in the lower left hand corner.

Thank you for your attention to this matter.

Sincerely,



Eurika Durr
Clerk of the Board

Enclosure

cc: Mark E. Johnson
Stinson Morrison Hecker LLP
1201 Walnut Street, Suite 2900
Kansas City, MO 64106-2150

David Cozad
Regional Counsel
U.S. EPA, Region 7
901 N. 5th Street
Kansas City, KS 66101

Inter-office Mail Scott A. Sherman
Office of Enforcement and Compliance Assurance (2366A)
U.S. EPA, Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Kenneth Patterson
Office of Enforcement and Compliance Assurance (2272A)
U.S. EPA, Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001