

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

In re:

Land O'Lakes, Inc. (Hudson Oil Refinery
Superfund Site),

Petitioner.

CERCLA § 106(b) Petition No. 15-01

Docket No. 06-16-08

DISMISSAL WITH PREJUDICE

Petitioner, Land O'Lakes, Inc. ("Petitioner"), by and through undersigned counsel, submits this Dismissal With Prejudice ("Dismissal") and requests dismissal with prejudice of its 106(b) Petition. In support of this Dismissal, Petitioner states as follows:

1. On August 18, 2015, Petitioner filed its *Petition for Reimbursement Under CERCLA Section 106(b) and for Relief for Constitutional Violations* ("Petition"), seeking relief and reimbursement of \$17,646,502 plus interest accrued and accruing from the United States Environmental Protection Agency.

2. On February 22, 2016, the United States filed a *Complaint* in the United States District Court for the Western District of Oklahoma in the matter styled *United States of America v. Land O'Lakes, Inc., and Cushing, Oklahoma Brownfields, LLC*, Case No. 5:16-cv-00170 ("Cost Recovery Case").

3. This matter was stayed pursuant to various orders of the Environmental Appeals Board ("EAB") pending the outcome of the Cost Recovery Case.

4. On May 21, 2021, the parties filed in this matter their Twenty-Second *Joint Status Report* advising that the EAB that the parties had reached an agreement on the key terms of settlement and were working on finalizing a proposed consent decree.

5. On June 9, 2021, the parties filed with this Board their Twenty-Third *Joint Status Report* notifying the Board that the trial of the Cost Recovery Case was continued by the United States District Court for the Western District of Oklahoma to the September 2021 non-jury trial docket.

6. On July 1, 2021, the parties filed with this Board their Twenty-Fourth *Joint Status Report* advising there were no changes to report from the Twenty-Second or Twenty-Third *Joint Status Reports*.

7. On August 26, 2021, the parties filed with this Board their Twenty-Fifth *Joint Status Report* advising that a definitive settlement had been reached by the parties in the Cost Recovery Case.

8. On August 30, 2021, the parties finalized a Consent Decree resolving the Cost Recovery Case and lodged same with the Court (“*Consent Decree*”).

9. The Consent Decree was made available for public comment, and no comments were received. On October 27, 2021, the United States filed an Unopposed Motion to Enter Consent Decree and Memorandum in Support, and on October 29, 2021, the District Court entered the *Consent Decree* (Doc. 166). *See* Exhibit “1” hereto.

10. Paragraph 16 of the *Consent Decree* requires that within fifteen (15) days of its Effective Date (*i.e.*, the date of court approval of the *Consent Decree* as recorded on the Court’s docket), Petitioner shall dismiss the *Petition* with prejudice.

11. For the reasons set forth above, Petitioner hereby dismisses the *Petition* with prejudice.

Respectfully submitted,

/s/ Stephen L. Jantzen

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 2, 2021, the above and foregoing was filed with the Court and service was made by electronic mail upon the following:

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/s/ Stephen L. Jantzen

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