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

ENVIR. APPEALS BOARD

IN RE:

Southern Iowa Mechanical  
Superfund Site  
Ottumwa, Iowa

Titan Tire Corporation

and

Dico., Inc.,

Petitioners

Petition for Reimbursement Under  
Section 106(b)(2) of the Comprehensive  
Environmental Response, Compensation,  
and Liability Act of 1980, as amended  
42 U.S.C § 9606(b)(2)

CERCLA-07-2009-0006

Petition No.  
CERCLA 106(b) 09-01

**MOTION TO FOR LEAVE TO FILE A RESPONSE TO THE  
PETITIONER'S RESPONSE TO THE UNITED STATES' MOTION TO  
DISMISS**

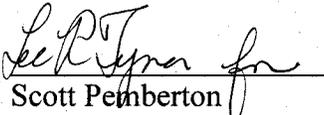
The Respondent, the U.S. Environmental Protection Agency, Region 7 ("EPA"), by and through its Office of Regional Counsel, hereby moves this Environmental Appeals Board ("Board") to request leave to file a response to the Petitioners' Titan Tire Corporation and Dico, Inc. (collectively, "Petitioners") response that was filed on December 14, 2009 (amended response brief filed on December 16, 2009). The Petitioners' response was filed in opposition to EPA's motion to dismiss the Petitioners' CERCLA Section 106(b) Petition for Reimbursement ("Petition") dated October 23, 2009.

Pursuant to Section IV.B. of the Board's Revised Guidance on Procedures for Submission and Review of CERCLA Section 106(b) Reimbursement Petitions dated November 10, 2004, EPA requests permission to respond to the Petitioner's response brief with a supplemental briefing that EPA believes would help clarify the case law, respond to other issues raised by the Petitioners' brief, and provide the Board with additional information to make a fully informed decision on the threshold issue of ripeness.

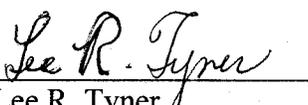
Respondents request that they may be permitted to submit a Response Brief by January 8, 2010. This additional time is requested as the Region 7 case attorney, Daniel Shiel, was hospitalized in December and it is unknown when he will be returning to the office. EPA has contacted the attorneys representing Petitioners, who indicated that they do not plan to oppose this motion.

Dated this 23<sup>d</sup> day of December 2009.

Respectfully submitted:

By:   
Scott Pemberton  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, KS 66101  
913-551-7925  
FAX 913.551.7925

 (DANIEL DOWTON FOR)  
Christina Skaar  
Office of Enforcement and Compliance Assurance  
U.S. EPA (2272A)  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460  
202-564-0895  
FAX 202-501-0269

  
Lee R. Tyner  
Office of General Counsel  
U.S. EPA (2366A)  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460  
202-564-5524  
FAX 202-564-5531

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23<sup>rd</sup> of December, 2009, I served a true and correct copy of the above Motion for Leave by mailing a copy via first class United States Mail to Mark Johnson | Stinson Morrison Hecker LLP, 1201 Walnut, Suite 2900, Kansas City, MO 64106-2150.

  
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