

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

_____ )	
In re: )	
)	
Tiger Shipyard, Inc. )	CERCLA 106(b) Petition No. 96-3
)	
Tiger Marine Site )	
_____ )	

**ORDER GRANTING WITHDRAWAL OF PETITION PURSUANT  
TO TERMS OF SETTLEMENT AGREEMENT**

This matter was commenced by the filing by Tiger Shipyard, Inc. ("Tiger") of a petition for reimbursement of costs that Tiger claimed to have incurred of approximately \$1.4 million in complying with a unilateral administrative order ("UAO") issued by U.S. EPA Region VI Superfund Division ("Region"). See CERCLA 106(b) Reimbursement Petition.<sup>1</sup> The Region filed a response to the Tiger's petition, and we ordered that an evidentiary hearing be held to take evidence on certain contested issues. The evidentiary hearing was held in April 1999 with Evan L. Pearson, the Regional Judicial Officer for U.S. EPA Region VI, serving as the hearing officer ("Presiding Officer").

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<sup>1</sup>The Region's UAO was issued pursuant to section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9606(a), and Tiger's petition for reimbursement of its response costs was filed pursuant to section 106(b)(2) of CERCLA, 42 U.S.C. § 9606(b)(2).

We issued our Preliminary Decision in this matter on April 24, 2001 after considering the full evidentiary record, the parties' briefs and other submissions, and a recommended decision prepared by the Presiding Officer.<sup>2</sup> We stated that it was our preliminary conclusion that Tiger's petition for reimbursement should be granted.

Consistent with our prior practice, we granted the parties an opportunity to comment on the Preliminary Decision. The Region was required to file its comments on or before May 25, 2001. Thereafter, the Region requested two extensions of time to submit its comments, stating that the parties desired an opportunity to discuss settlement of this case. Specifically, the Region stated that "[i]n light of the Board's ruling, the parties have agreed to settle this matter." See EPA's Second Request for Additional Time to Comment on the Environmental Appeals Board's Preliminary Decision (June 26, 2001).

Now, Tiger has filed a Request to Terminate Proceedings on Account of Settlement ("Request to Terminate Proceedings") and Tiger refers us to an attached Consent Agreement. That Consent Agreement states that "EPA shall disburse funds to the Petitioner in the amount of \$1,402,180.65, in full settlement of the

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<sup>2</sup>The Preliminary Decision contains a more detailed description of the procedural history of this matter, including a description of the stay necessitated by a then on-going criminal investigation. The Preliminary Decision also contains a detailed description of the parties' arguments and our reasons for concluding that Tiger's petition should be granted. See *In re Tiger Shipyard, Inc.*, CERCLA 106(b) Petition No. 96-3, Preliminary Decision (EAB, Apr. 24, 2001).

Petition.” Consent Agreement ¶ 15. The Consent Agreement states further that “[u]pon receipt of payment, Tiger agrees to withdraw its Petition before the EAB with prejudice.” *Id.* ¶ 17. In its Request to Terminate Proceedings, Tiger states that it “acknowledges that EPA has disbursed funds and that [Tiger] has received funds as set forth in the Consent Agreement,” and Tiger states that the Region has “expressed no opposition to this Motion.”

Upon consideration, Tiger’s CERCLA 106(b) Reimbursement Petition is hereby dismissed with prejudice pursuant to the terms of the parties’ Consent Agreement.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: \_\_\_\_\_/s/\_\_\_\_\_  
Kathie A. Stein,  
Environmental Appeals Judge

Dated: 07/17/01

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Granting Withdrawal of Petition Pursuant to Terms of Settlement Agreement in the matter of Tiger Shipyard, Inc. (Tiger Marine Site), CERCLA 106(b) Petition No. 96-3, were sent to the following persons in the manner indicated:

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Dated: 07/17/01

\_\_\_\_\_/s/\_\_\_\_\_  
Annette Duncan  
Secretary