

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

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)

Petition No.

CERCLA 106(b) 10-01

Docket No.

CERCLA -07-2009-0006

**MOTION FOR AN EXTENSION OF TIME TO RESPOND TO SECOND PETITION
FOR REIMBURSEMENT OF FUNDS**

The Respondent, the U.S. Environmental Protection Agency, Region 7, ("EPA"), by and through its Office of Regional Counsel, hereby moves the Board pursuant to Sections II.I.1 and V.B of the Board's Practice Manual dated June 2, 2004, ("EAB Manual") and Section IV.A.3 of the Board's Revised Guidance on Procedures for Submission and Review of CERCLA Section 106(b) Reimbursement Petitions dated November 10, 2004 ("EAB Guidance"), for an extension of the August 23, 2010 deadline for responding to Titan Tire Corporation ("Titan Tire") and Dico, Inc.'s ("Dico") jointly "Petitioners") Second Petition for Reimbursement of Funds

Expended by Petitioners Titan Tire Corporation and Dico, Inc., in Complying with United States Environmental Protection Agency CERCLA 106(a) Administrative Order No. CERCLA 07-2009-0006 and Other Required Actions and for Relief for Constitutional Violations ("Second Petition") dated May 24, 2010.

Petitioners seek reimbursement of the costs they allegedly incurred in complying with the terms of the Order for Removal Response Activities, Docket No. CERCLA-07-2009-0006, ("Order") transmitted by the EPA to Petitioners by letter dated December 30, 2008, which became effective on January 23, 2009, in connection with the Southern Iowa Mechanical Site ("Site") and other costs. *See* Petitioner's Exhibit 1 (Pet. Ex. 1). EPA issued the Order under Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9606(a).

Petitioners' arguments supporting reimbursement raise issues concerning investigations and response actions conducted under CERCLA on Petitioner Dico's property in Des Moines, Iowa starting in the early 1990s. Some documents containing relevant information date back prior to the 1990s. The number of documents identified by EPA is larger than anticipated and has required a great deal of time to organize and copy them for filing in this matter.

EPA therefore respectfully requests that the deadline for its response to the Second Petition be extended until September 15, 2010. EPA contacted counsel for Petitioners by telephone on August 19, 2010, and Petitioners' counsel stated that he had no objection to the extension.

EPA previously filed with the Board a certified copy of the Administrative Record Index for the Southern Iowa Mechanical Site on November 24, 2009, in conjunction EPA's Motion to Dismiss Petitioners' Petition for Reimbursement dated October 23, 2009.

Dated this 20th day of August 2010.

Respectfully submitted:

By:



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CERTIFICATE OF SERVICE

I hereby certify that on the 20th of August, 2010, I served a true and correct copy of the above Motion to Dismiss 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.

