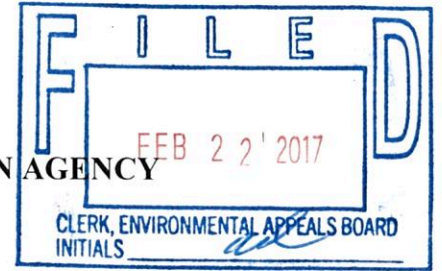


ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



In re: )

Mille Lacs Band of Ojibwe )

Request for an Eligibility Determination )  
under the CAA Tribal Authority Rule )

CAA Appeal No. 17-01M

**ORDER DENYING MOTION  
AS MOOT**

In January 2017, the County of Mille Lacs, Minnesota (“County”) filed a motion before the Environmental Appeals Board (“Board”) requesting an extension of time to appeal a determination by U.S. EPA Region 5 (“Region”) granting a request by the Mille Lacs Band of Ojibwe for “treatment as a state” status for two programs under the Clean Air Act. The primary basis for the County’s motion was that it did not have a copy of the Region’s Decision Document.

The Board issued an Order directing the County to show cause why its motion should not be dismissed for lack of jurisdiction and allowing the Region to file a reply to the County’s response. The Board noted that the Agency action the County seeks to potentially appeal does not appear to fall under authorities that support jurisdiction for an appeal to the Board. *In re Mille Lacs Band of Ojibwe*, CAA Appeal No. 17-01M (EAB Jan. 27, 2017) (Order to Show Cause Why Motion Should not be Dismissed for Lack of Jurisdiction). The County filed its response stating that “it does not wish to assert that the [Environmental] Appeals Board has jurisdiction to hear the Motion the County filed” and noting that they now have a copy of the Decision Document which makes their “motion request unnecessary and moot, \*\*\* and can

proceed to file an appeal to the Decision Document in accordance with EPA rules and regulations.” Response from County of Mille Lacs, Minnesota Consent to Dismiss for Lack of Jurisdiction at 3 (Feb.7, 2017). The Region did not file a reply brief.

Upon consideration the Board denies the County’s motion as moot. As neither party addressed jurisdictional questions related to the underlying Agency decision referenced in the County’s motion, this Order does not address them either. Instead, as there is no appeal or petition involving the parties pending before the Board, the Order resolves only the County’s motion.

So ordered.

Dated: Feb 27, 2017

ENVIRONMENTAL APPEALS BOARD<sup>1</sup>

By: Mary Kay Lynch  
Mary Kay Lynch  
Environmental Appeals Judge

---

<sup>1</sup> The three-member panel deciding this matter consists of Environmental Appeals Judges Mary Kay Lynch, Kathie A. Stein, and Mary Beth Ward.

**CERTIFICATE OF SERVICE**

I certify that copies of the forgoing *Order Denying Motion as Moot* in the matter of Mille Lacs Band of Ojibwe, CAA Appeal No. 17-01M, were sent to the following persons in the manner indicated:

**By First Class Mail:**

Randy V. Thompson  
5001 American Boulevard  
595 Southgate Office Plaza  
Bloomington, MN 55437

Susan Klapel  
Commissioner of Natural Resources  
Mille Lacs Band of Ojibwe  
43408 Oodena Drive  
Onamia, MN 56359

Todd R. Matha  
Solicitor General  
Mille Lacs Band of Ojibwe  
43408 Oodena Drive  
Onamia, MN 56359

**By EPA Pouch Mail:**

Barbara L. Wester  
Associate Regional Counsel  
Office of the Regional Counsel  
US EPA Region 5  
77 West Jackson Blvd. (C-14J)  
Chicago, IL 60604

Dated:           **FEB 22 2017**          

  
\_\_\_\_\_  
Annette Duncan  
Administrative Specialist