

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In Matter of Lyon County
Landfill, Lynd Minnesota

Lyon County Board of Commissioners,

Plaintiff,

ORDER

Civil No. 99-1460 ADM/AJB

v.

United States of America,

Defendant.

Jay D. Carlson, Esq., Carlson Law Office, Fargo, North Dakota, and Richard Maes, Esq., Lyon County Attorney, Marshall, Minnesota, appeared for and on behalf of the Plaintiff.

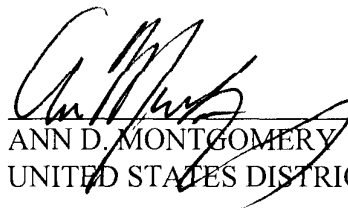
Jon M. Lipshultz, Esq., United States Department of Justice, Washington, D.C., and Friedrich A. P. Siekert, Esq., Assistant United States Attorney, Minneapolis, Minnesota, appeared for and on behalf of the Defendant.

This matter came on for hearing before the undersigned United States District Judge on February 11, 2000, pursuant to Defendant's Motion to Dismiss for lack of subject matter jurisdiction. The Court lacks subject matter jurisdiction both because Plaintiff has failed to exhaust its administrative remedies and because there has been no final order addressing the merits of the above-captioned action, as required by 42 U.S.C. § 7413(d). For the reasons stated on the record at the February 11, 2000 hearing, **IT IS HEREBY ORDERED** that Defendant's motion is **GRANTED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

FEB 14 2000
FILED _____
FRANCIS E. DOSAL, CLERK
JUDGMENT ENTERED **FEB 14 2000**
DEPUTY CLERK _____

BY THE COURT:



ANN D. MONTGOMERY
UNITED STATES DISTRICT JUDGE

Dated: *February 11, 2000*

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

CIVIL NOTICE

DATE MAILED TO COUNSEL/PRO SE PARTIES:

The purpose of this notice is to summarize the time limits for filing with the District Court Clerk's Office a Notice of Appeal to the Eighth Circuit Court of Appeals from a final decision of the District Court in a civil case.

This is a summary only. For specific information on the time limits for filing a Notice of Appeal, review the applicable federal civil and appellate procedure rules and statutes.

Rule 4(a) of the Federal Rules of Appellate Procedure (Fed. R. App. P.) requires that a Notice of Appeal be filed within:

1. Thirty days (60 days if the United States is a party) after the date of "entry of the judgment or order appealed from;" or
2. Thirty days (60 days if the United States is a party) after the date of entry of an order denying a timely motion for a new trial under Fed. R. Civ. P. 59; or
3. Thirty days (60 days if the United States is a party) after the date of entry of an order granting or denying a timely motion for judgment under Fed. R. Civ. P. 50(b), to amend or make additional findings of fact under Fed. R. Civ. P. 52(b), and/or to alter or amend the judgment under Fed. R. Civ. P. 59; or
4. Fourteen days after the date on which a previously timely Notice of Appeal was filed.

If a Notice of Appeal is not timely filed, a party in a civil case can move the District Court pursuant to Fed. R. App. P. 4(a)(5) to extend the time for filing a Notice of Appeal. This motion must be filed no later than 30 days after the period for filing a Notice of Appeal expires. If the motion is filed after the period for filing a Notice of Appeal expires, the party bringing the motion must give the opposing parties notice of it. The District Court may grant the motion, but only if excusable neglect or good cause is shown for failing to file a timely Notice of Appeal.