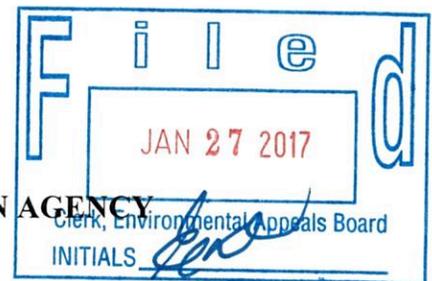


ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)

Mille Lacs Band of Ojibwe)

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

CAA Appeal No. 17-01M

**ORDER TO SHOW CAUSE
WHY MOTION SHOULD NOT BE DISMISSED
FOR LACK OF JURISDICTION**

On January 12, 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”) pursuant to 40 C.F.R. § 49.7 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 County explains that on December 12, 2016, it received a copy of the Region’s response to comments on this matter, and since then it has been trying to obtain a copy of the decision document. In its motion, the County requests an extension to file an appeal “until the thirty (30) days after either it receives the Decision Document or receives confirmation on which document or information is in fact the Decision Document.” Motion for Extension of Time to Appeal Decision at 2.

The Board adjudicates certain Clean Air Act related permits and disputes in accordance with EPA regulations at 40 C.F.R. Part 49 but the Agency action the County seeks to potentially appeal does not appear to fall under these regulatory provisions or other authorities that support jurisdiction for an appeal before the Board.

The Board therefore orders the County to show cause why its motion should not be dismissed for lack of jurisdiction. The County must file its response to this order no later than **Tuesday, February 7, 2017**. EPA Region 5 may, if it so chooses, file a reply to the County's response and must submit any such reply no later than **Tuesday, February 14, 2017**.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: January 27, 2017

By: Mary K Lynch
Mary Kay Lynch
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the forgoing *Order to Show Cause Why Motion Should Not Be Dismissed for Lack of Jurisdiction* 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
Commisioner 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: _____

1-27-2017



Annette Duncan
Administrative Specialist