



Mille Lacs Band of Ojibwe Indians

*Executive Branch of Tribal Government
Office of the Chief Executive*

Via E-mail

Virgil Wind, Chief Executive
Mille Lacs Band of Ojibwe
43408 Oodena Drive
Onamia, MN 56359

July 7, 2025

Scott J. Davis, Senior Advisor to the Secretary of the Interior
U.S. Department of the Interior
Office of Regulatory Affairs and Collaborative Action
1001 Indian School Road NW, Suite 229
Albuquerque, NM 87104

Re: Emergency Permitting Procedures for NEPA, ESA, and NHPA Section 106 to Strengthen Domestic Energy Supply

Dear Mr. Davis,

The Mille Lacs Band of Ojibwe (the “Band”) is a Federally recognized Tribe located primarily in east-central Minnesota with more than 5,000 enrolled Band members. We have a 61,000-acre Reservation established under the 1855 Treaty of Washington (10 Stat. 1165) and exercise governmental jurisdiction over lands in Aitkin, Crow Wing, Dakota, Kanabec, Hennepin, Mille Lacs, Morrison, and Pine County. We exercise our treaty-protected reserved rights in the 1837 Treaty of St. Peters (7 Stat. 536) and 1842 Treaty of La Pointe (7 Stat. 591) treaty-ceded territories spanning from east-central Minnesota, across northern Wisconsin, and into western portion of the Upper Peninsula of Michigan, including the portions of Lake Superior in Minnesota, Wisconsin, and Michigan. We have nine statutorily defined communities, of which two are on our reservation, and the other seven are scattered across east-central Minnesota. The Band thanks the U.S. Department of the Interior (the “Department”) for this opportunity to provide you with our comments.

An emergency is a situation that requires urgent responsive action to protect life, health, property, critical infrastructure, or the environment. See, e.g., DOE O 151.1E, Comprehensive Emergency Management System at 15-2 (2024);¹ DOI 900 DM 1, Emergency Management Program Policy, Responsibilities, and Requirements at 9 (2019).² It’s a sudden, unforeseen event that demands prompt response and intervention. Nothing in the Executive Order 14156: *Declaring a National Energy Emergency* (EO 14156), addresses or purports to respond to any existing emergency. While EO 14156 recognizes the importance of prioritizing the powers of the

¹ Available at <https://www.directives.doe.gov/directives-documents/100-series/0151.1-border-e/>.

² Available at https://www.doi.gov/sites/doi.gov/files/elips/documents/chapter_1_emergency_management_program_policy_responsibilities_and_requirements.pdf.

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United States to meet public needs for reliable domestic energy, it does not establish an immediate risk to life, health, property, or the environment. It does not require urgent action to prevent the situation from worsening and potentially escalating into immediate danger. The state of the United States's energy infrastructure discussed in EO 14156 is neither sudden nor unforeseen. It does not require prompt response and intervention. And even if EO 14156 did identify an emergency, it would not absolve the United States and its agencies from their obligation to conduct meaningful and substantive government-to-government consultation with affected Tribes.

Meaningful and substantive government-to-government consultation conducted requires sovereign Tribes and the United States to collectively discuss how the United States' actions affect the Tribe's legal rights, including access to Treaty-protected natural resources and other rights established in the Treaties between the Tribe and the United States. Consultation requires in-depth discussions regarding impacts of projects assessed through the National Environmental Policy Act (NEPA), impacts to the protections enshrined in the Endangered Species Act (ESA), and impacts to the Tribe's cultural and historical properties through the Section 106 of the National Historic Preservation Act (NHPA).

The Band does not believe that EO 14156 identifies any conditions that constitute a true emergency and does not agree that EO 14156 triggers NEPA's emergency provisions. We firmly disagree that the expedited Section 7 consultation process for the ESA is necessary. Section 106 of the National Historic Preservation Act requires federal agencies to engage in ongoing consultation to assess the potential adverse effects of any federal undertaking on historic lands and properties. Providing Tribes mere notice and the ability to comment on a planned project or initiative is insufficient to protect the Tribe's cultural and historical properties. Circumventing these protective measures by declaring an emergency when there is none undermines the integrity of the United States, erodes the relationship between the federal and Tribal governments, and endangers all Americans; Native Americans will be the first to feel the effects of this endangerment. It is equally important to remember that the obligation to consult is triggered not only when the federal government identifies a potential impact, but also when Tribes determine that a federal action might impact them.

Tribal Consultation for Environmental Assessments (EAs) under NEPA must include evidence and analysis for determining whether to make a Finding of No Significant Impact (FONSI) or prepare an Environmental Impact Statement (EIS). This can take 6 months or longer. If an EIS is needed, the parties must engage in additional consultation. Because the Tribe must also internally consult with Tribal elders, knowledge keepers, and stakeholders preceding and following a formal government-to-government consultation with the United States, the EIS consultation process must include ample time to ensure a meaningful and substantial government-to-government engagement and assessment of impacts. The alternate NEPA Compliance Process proposed in EO 14156 replaces the substantive requirements of consultation with empty procedural box-checking, disregarding the nuances of specific projects, and dismissing the needs of the Tribe. This is not consultation, but rather a disrespectful, heavy-handed tactic to coerce Tribes into agreeing to proposed federal actions. Reducing EA consultation to 14 days, and EIS consultation to 28 days will not ensure meaningful and

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substantial government-to-government consultation between the Tribes and the United States. In effect, it makes meaningful and substantial government-to-government consultation impossible.

Because the Tribes are tied to the land and the natural resources contained there-in, Tribes also rely on the ESA to ensure protected habitat for species that are integral to the vitality of Tribal culture, be it the migizi (bald eagle, *Haliaeetus leucocephalus*), ma'iingan (gray wolf, *Canis lupus*), or the aamoo (rusty patched bumble bee, *Bombus affinis*). Implementing an expedited Section 7 consultation process will greatly curtail the communication between the United States and Tribes, and in some cases bypass the consultation process with the Tribes entirely, dispossessing the Tribe of our rights to these critical species. Self-determination and sovereignty require that the Tribes have the opportunity to understand and assess all federal decisions before they are implemented and have the opportunity to discuss how those decisions could impact Tribes, our lands, and our rights with federal decision-makers.

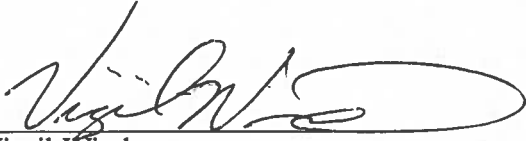
The alternative procedures for compliance with NHPA Section 106 similarly disregards the sovereignty of Tribes, puts the Tribe's cultural and historical properties in danger, and will necessarily result in deficient consultation. Again, given the Tribe's need to internally consult with the Tribe's elders, knowledge keepers, and stakeholders preceding and following a formal government-to-government consultation with the United States, relying solely on notification to the Advisory Council on Historic Preservation (ACHP), relevant State Historic Preservation Offices (SHPOs), Tribal Historic Preservation Offices (THPOs), and Indian Tribes of the specific energy projects is inadequate, and does not allow Tribes sufficient time to provide complete or robust comments.

Because EO 14156 does not identify any emergency, the Tribe will not consider any emergency procedures implemented pursuant to this EO to be a credible emergency. Further, the procedures outlined in EO 14156 are contrary to the principles of Tribal self-determination promoted by this Administration, violate the government-to-government relationship between Tribes and the United States, and abdicates the federal government's responsibilities to Tribes. EO 14156 and its proposed modifications to Tribal consultation are therefore unacceptable.

The Band again thanks the Department for accepting oral comments we have provided in person on May 29, 2025, in Minneapolis, MN, and for accepting our written comments. Should you have further questions, please contact Commissioner Kelly Applegate by e-mail at kelly.applegate@millelacsband.com.

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A handwritten signature in black ink, appearing to read "Virgil Wind", written over a horizontal line.

Virgil Wind
Chief Executive
Mille Lacs Band of Ojibwe

CC:

Kelly Applegate, Mille Lacs Band of Ojibwe Commissioner of Natural Resources
Susan Klapel, Executive Director, Mille Lacs Band of Ojibwe Department of Natural Resources