

COMMISSIONER'S ORDER NO. 350-02

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07/16/02 k/n

Natural Resources

A Commissioner's Order to implement the prescribed format for a Categorical Exclusion (CE) checklist as part of the environmental assessment process for certain projects under the jurisdiction of the Mille Lacs Band of Ojibwe, as part of compliance with the National Environmental Policy Act (NEPA), section 102 [42 USC § 4332].

WHEREAS, Title 11 MLBSA § 2002 directs the Commissioner of Natural Resources to protect all natural resources under the jurisdiction of the Mille Lacs Band of Ojibwe, and

WHEREAS, the environment on the Mille Lacs Reservation has an effect on natural resources under the jurisdiction of the Mille Lacs Band of Ojibwe, and

WHEREAS, the protection of the environment is a responsibility delegated to the Commissioner of Natural Resources, and

WHEREAS, the need for evaluating effects on the environment at project sites is necessary for the preservation of natural resources, and

WHEREAS, the United States of America enacted the National Environmental Policy Act (NEPA) for protection of the environment, and

WHEREAS, pursuant to Commissioner's Order No. 279-98 the Mille Lacs Band Department of Natural Resources/Environment implemented the use of the Environmental Assessment Worksheet (EAW) as part of compliance with NEPA for any project within the jurisdiction of the Mille Lacs Band of Ojibwe, and

WHEREAS, pursuant to NEPA, section 102 [40 USC § 4332], the Mille Lacs Band of Ojibwe shall require the use of the Categorical Exclusion (CE) checklist for certain projects, following guidelines set out under 30 BIAM Supplement 1, NEPA Handbook, and 516 DM 6, Appendix 4.4, and

WHEREAS, certain projects which meet the requirements as listed in 516 DM 6 Appendix 4.4 for categorical exclusions such as, but not limited to: renewal leases or new leases for existing structures only, home interior renovations excluding bedroom additions, adding drain tile around housing, replacing sidewalks, adding class 5 to driveways or adding black dirt to yards, and certain light grading, shall be eligible for using the prescribed CE checklist in lieu of the EAW, at the discretion of the Commissioner of Natural Resources, and

WHEREAS, nothing herein or the application thereof shall be construed by any government, agency, person or circumstance as a waiver by the Mille Lacs Band of Ojibwe of the solemn, special trust obligation of the United States of America, and

WHEREAS, pursuant to the provisions of Mille Lacs Band Statutes Annotated Title 11 Section 2002, the Commissioner of Natural Resources is empowered to execute the following Categorical Exclusion form for determining the significance of environmental impacts for the Mille Lacs Band Department of Natural Resources.

NOW THEREFORE, by the statutory authority vested in me by the Mille Lacs Band of Ojibwe under tribal law, I, Curt Kalk, Commissioner of Natural Resources for the Mille Lacs Band of Ojibwe, hereby require the implementation of the Categorical Exclusion form, established by NEPA, section 102 [42 USC § 4332] following the guidelines set out under 30 BIAM Supplement 1, NEPA Handbook, and in 516 DM 6 Appendix 4.4, as part of compliance with NEPA and compliance with Mille Lacs Band law. Such form is required in lieu of an EAW, for the undertaking of certain projects within the jurisdiction of the Mille Lacs Band of Ojibwe.

DATED at Vineland, Minnesota this _____ day of _____ in the year two thousand and two.

Curt Kalk
Commissioner of Natural Resources

APPROVED AND NUMBERED AS
TO FORM AND EXECUTION

Mary Al Balber
Solicitor General

OFFICIAL SEAL OF THE BAND

LIST A

CATEGORICAL EXCLUSIONS AS LISTED IN 516 DM 6 APPENDIX 4.4

A. Operation, Maintenance and replacement of existing facilities.

Examples are:

- Road Repairs
 - Repairs on buildings
- (This does not include septic and wells)

B. Transfer of Existing Federal Facilities to other Entities such as tribal grounds. The transfer must include:

- anticipated operations & maintenance activities agreed to in a contract, follow BIA policy, and no change in operations or maintenance is anticipated.

C. Human Resource Programs having primarily socio-economic effects.

Examples are:

- Social services
- Education services
- Employment assistance
- Tribal operations
- Law enforcement
- Credit & financing activities

D. Administrative actions and other activities relating to Mille Lacs Band of Ojibwe resources. This includes:

- a. Management of trust funds
- b. Issuance of documents, such as certificates of competency, allotments and fee patents
- c. Renewal of agricultural and other leases when environmental impacts are addressed in an earlier environmental document.
- d. New lease for existing structure

E. Self –Determination Act Grants and Contracts.

F. Rights-of-Way

- a. ROW's inside another ROW, or amendments to ROW where minor deviations from or additions to the original ROW are involved & where an environmental document covering the same or similar impacts in the ROW
- b. Service line agreements to an individual residence, building or well from existing facility where installation will involve no clearance of vegetation from the ROW other than placement of poles or lines.

- c. Renewals, assignments & conversions of ROW where essentially no change in use or continuation would not lead to environmental degradation
- G. Minerals- see regulations
- H. Forestry- see regulations
- I. Land Conveyance – Approvals or grants of conveyances and other transfers of interests in land where no change in land use is planned.
- J. Other
 - a. Data gathering activities ie. surveys, soil, timber, etc.
 - b. Non-disturbance environmental quality monitoring programs
 - c. Actions where BIA has concurrence of co-approval with another Bureau & the action is categorically excluded for that bureau
 - d. Approval of an application for permit to drill for a new water source or observation well
 - e. Approval of conversion of an abandoned oil well to a water well if water facilities are established only near the well site.