

January 25, 2011

Cheryl Newton, Director
USEPA Region 5, Air and Radiation Division
77 West Jackson Boulevard
Chicago, IL 60604-3590

Aaniin Ms. Newton,

Thank you for the opportunity to submit a designation recommendation for implementing the health-based National Ambient Air Quality Standards (NAAQS) for nitrogen dioxide (NO₂), in which the existing annual-mean standard of 53 parts per billion (ppb) is supplemented by a new 1-hour primary standard of 100 ppb, originally listed on the USEPA Docket as EPA-HQ-OAR-2006-0922, which a letter from Susan Hedman, USEPA Region 5 Regional Director, dated November 15, 2010, states designation recommendations are due on January 25, 2011.

The Reservations and off-Reservation communities of the Mille Lacs Band of Ojibwe are located in east-central Minnesota, distributed in three districts spanning from the Mississippi River to the west to the St. Croix River to the east, which forms part of the Minnesota-Wisconsin boundaries. The Mille Lacs Band of Ojibwe recommends all land within the jurisdiction of the Mille Lacs Band be designated as being in UNCLASSIFYABLE for the proposed revised NO₂ NAAQS, though we believe we are in attainment, but lack monitoring data to support our belief. However, we reserve the right to change our recommended designation at any time in the future.

We strongly would like to recommend the ceded territories under the Treaties of 1837 and 1842, which the Mille Lacs Band hold interest, be designated as being UNCLASSIFYABLE for the proposed revised NO₂ NAAQS, though we believe the two Treaty-ceded Territories are also in attainment, but lack monitoring data to support our belief. The 1837 Treaty-ceded Territory extends from east-central Minnesota to central Wisconsin; the 1842 Treaty-ceded Territory comprises of all of northern Wisconsin and extends into western Upper Peninsula of Michigan for land, and covers Minnesota, Wisconsin and western Upper Peninsula portions of Lake Superior.

Within the 1837 Treaty-ceded Territory are the Metropolitan Statistical Areas (MSAs) of St. Cloud, Minneapolis-St. Paul, Eau Claire and Wausau. Within the 1842 Treaty-ceded Territory is the Duluth-Superior MSA. In particular, the Minneapolis-St. Paul MSA is of great interest to the Mille Lacs Band of Ojibwe, not only due to the close proximity to the Reservation thus containing our Urban Service District serving our tribal members living in the MSA, but this MSA is generally upwind of the Reservation. Not within the 1837 Treaty-ceded Territory but within the Minneapolis-St. Paul MSA are three NO₂ monitors, which none of the three NO₂ monitors have exceeded the 53 ppb annual mean between 2005 and 2008, and clearly demonstrating the MSA itself is in attainment; with the Mille Lacs Band of Ojibwe and our Treaty-ceded Territories being downwind of this MSA that clearly demonstrates being in attainment, we believe we are also in attainment, but due to not able to confirm our belief, we have no choice but to make the current recommendation of UNCLASSIFYABLE.

If you have any questions regarding this recommendation, please feel free to contact the Mille Lacs Band of Ojibwe DNRE Air Quality Program at the address or the telephone number below.

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Charles J. Lippert, Air Quality Technician
Department of Natural Resources and Environment
Mille Lacs Band of Ojibwe