

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Mille Lacs Band of Ojibwe, a federally recognized Indian Tribe; Sara Rice, in her official capacity as the Mille Lacs Band Chief of Police; and Derrick Naumann, in his official capacity as Sergeant of the Mille Lacs Police Department,

Plaintiffs,

v.

County of Mille Lacs, Minnesota; Joseph Walsh, individually and in his official capacity as County Attorney for Mille Lacs County; and Don Lorge, individually and in his official capacity as Sheriff of Mille Lacs County,

Defendants.

Case No. 17-cv-05155 (SRN/LIB)

UNITED STATES' UNOPPOSED MOTION FOR LEAVE OF COURT TO FILE AN AMICUS BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT THAT THE BOUNDARIES OF THE MILLE LACS INDIAN RESERVATION, AS ESTABLISHED IN 1855, REMAIN INTACT

The United States respectfully requests leave to file the attached proposed amicus brief in support of Plaintiffs' Motion for Partial Summary Judgment that the Boundaries of the Mille Lacs Indian Reservation, as Established in 1855, Remain Intact. ECF No.

223. The United States has conferred with counsel for Plaintiffs and Defendants.

Plaintiffs and Defendants do not oppose this motion.

As grounds for this motion, the United States asserts the following:

On November 17, 2017, Plaintiffs, the Mille Lacs Band of Ojibwe (“Band”) along with two of the Band’s law enforcement officials filed suit against Defendants, the County of Mille Lacs, the County Attorney, and County Sheriff, alleging claims regarding the County’s ongoing interference with the Band’s law enforcement efforts on the Mille Lacs Indian Reservation (“Reservation”). ECF No. 1. At the heart of that conflict is a dispute as to whether the Reservation, as established by treaty in 1855, has been disestablished or diminished.

At the request of the parties, the Court ordered to “defer dispositive motions regarding the scope of the Mille Lacs Band’s law enforcement authority pending resolution of issues relating to the status of the 1855 Mille Lacs Indian Reservation.” ECF No. 211. The parties filed summary judgment motions on the Reservation boundaries on February 1, 2021. ECF Nos. 223 and 239.

The United States has a substantial interest in the interpretation of federal treaties, statutes, and agency determinations regarding Indian interests. “The Constitution vests the Federal Government with exclusive authority over relations with Indian tribes.” *Montana v. Blackfeet Tribe*, 471 U.S. 759, 764 (1985). The Supreme Court has long-recognized the general trustee relationship between the Government and tribal nations. *United States v. Mitchell*, 463 U.S. 206, 225 (1983); *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515, 556-57 (1832).

Because of its special relationship with Indian tribes, the United States has a strong interest in protecting the integrity of reservation boundaries and promoting tribal

self-government within those boundaries. *See Plains Commerce Bank v. Long Family Land & Cattle Co.*, 554 U.S. 316, 327-28 (2008) (Tribal sovereignty “centers on the land held by the tribe and on tribal members within the reservation”); *Montana v. United States*, 450 U.S. 544, 565 (1981) (recognizing tribes’ inherent sovereign power to exercise certain forms of jurisdiction over non-Indians “on their reservations, even on non-Indian fee lands”). In addition, the United States exercises unique governmental authority within Indian country, including exercising criminal jurisdiction, managing trust lands and natural resources, and in federal environmental permitting on reservations. In the case of the Band, for example, the United States has approved requests to acquire trust land on the Reservation. *See, e.g., See Cnty. of Mille Lacs, Minn., Appellant, v. Midwest Reg’l Dir., Bureau of Indian Affairs, Appellee*, 37 IBIA 169 (Mar. 25, 2002); *Cnty. of Mille Lacs, Minn., Appellant, v. Acting Midwest Reg’l Dir., BIA, Appellee*, 62 IBIA 130 (Jan. 29, 2016). As of January 1, 2017, the United States also re-assumed concurrent criminal jurisdiction over the Band’s Indian county. *United States Assumption of Concurrent Federal Criminal Jurisdiction; Mille Lacs Band of Ojibwe*, 81 Fed. Reg. 4335 (Jan. 26, 2016).

For these reasons and those articulated in its *amicus curiae* brief, the United States has a substantial interest in this matter and its views may assist the Court in resolving the issues raised in the cross-motions. The Local Rules for this District do not set forth specific page length requirements for *amicus curiae* briefs, and given the Court’s decision to allow 30,000 words per side for briefing on each of the summary judgment motions “due to the complex legal and factual issues involved in the motion[s],” ECF No.

216, the United States respectfully requests that the Court grant the instant motion for leave to file the attached proposed brief, which consists of 15,765 words. The United States has also advised Defendants that it does not oppose a proposal by Defendants to file a response up to the same length as the United States' brief within ten days of service of the brief on Defendants. Finally, if the Court is inclined, the United States is willing to participate at oral argument on the motions, scheduled March 15, 2021.

DATED: March 1, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, JoAnn L. Kintz, hereby certify that, on March 1, 2021, I caused the foregoing to be served upon counsel of record through the Court's electronic service system.

/s/JoAnn L. Kintz