

Court of Appeals, State of Michigan

ORDER

Natural Resources Defense Council v Dept of Natural Resources

Peter D. O'Connell
Presiding Judge

Docket No. 301449

Patrick M. Meter

LC No. 10-000358-AA

Amy Ronayne Krause
Judges

The Court orders that the motion for immediate consideration of the motion to dismiss and motion for immediate consideration of the motion to file a reply brief in support of the motion to dismiss are each DENIED.

The Court orders that the motion to file a reply brief in support of the motion to dismiss is GRANTED.

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2) is DENIED. MCR 7.203(A)(1)(a) is inapplicable to exclude the November 16, 2010 circuit court order at issue from the scope of orders that are appealable of right to this Court because the circuit court order was not entered on appeal from a court or tribunal. Appellee Department of Natural Resources and Environment did not act as a "tribunal" in issuing the permit at issue because that department does not act in an adjudicatory role in connection with the relevant permit consideration process under MCL 324.5505. See Black's Law Dictionary (9th ed) (defining "tribunal" as [a] court or other adjudicatory body"). Further, the November 16, 2010 order is a final order under MCR 7.202(6)(a)(i) because it disposed of the claim in this case and adjudicated the rights and liabilities of the parties by affirming the issuance of the permit on the ground that it was authorized by law. Thus, the November 16, 2010 order is appealable of right to this Court. MCR 7.203(A).



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 18 2011

Date


Chief Clerk