

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In Re:)	
)	
Northern Michigan University)	PSD Appeal No. 08-02
Ripley Heating Plant)	
)	
PSD Permit No. 60-07)	
_____)	

NORTHERN MICHIGAN UNIVERSITY MOTION FOR LEAVE TO INTERVENE

Pursuant to 40 C.F.R. § 124.19 and Environmental Appeals Board (“EAB” or “the Board”) Practice Manual § III.D.4, Northern Michigan University (“NMU”) hereby moves for leave to intervene in the petition for review filed by the Sierra Club and to file a response to that petition. The petition for review involves the decision by the Michigan Department of Environmental Quality (“MDEQ”) to issue a Prevention of Significant Deterioration (“PSD”) permit to NMU to construct a new circulating fluidized bed boiler at NMU’s Ripley Heating Plant in Marquette, Michigan. The petition alleges that the MDEQ failed to include necessary permit conditions and make certain necessary findings, made erroneous conclusions, and failed to undertake certain required analysis. NMU disagrees with these allegations.

As the permittee, NMU has a direct interest in the proceedings relating to the permit and the petition. Disposition of the action may as a practical matter impair or impede NMU’s ability to protect that interest.

NMU is aware that the MDEQ has already filed a response to the petition and that petitioner filed a reply, upon permission of the EAB. NMU believes its submission can be of value to the Board’s consideration of this matter by providing the permittee’s unique

perspectives on the issues, including the planned operating parameters and technologies chosen, and the impacts that petitioner's arguments would have on the proposed construction and operation of the boiler and on NMU in general.

NMU proposes that it be granted leave to file its response to the petition within two weeks of this motion being granted, and that the petitioner and MDEQ be given a reasonable period of time to reply to NMU's response, if either chooses to do so.

NMU further asserts that any delay that may be caused by its intervention would be prejudicial solely to its own interests, as it is the party requesting the PSD permit to construct the boiler. Nevertheless, the issue is of such importance to NMU that it is willing to accept the additional delay that further briefing may cause. Moreover, NMU notes that petitioner already itself sought to extend the briefing by filing a reply, which it did on August 21, 2008, so petitioner would not be prejudiced by the additional filing and would presumably be given a reasonable time to respond. NMU also recognizes that one of the major issues raised by petitioner, whether carbon dioxide is "subject to regulation" under the Clean Air Act for purposes of PSD permitting, is currently on review by the EAB in another pending case, with supplemental briefing due September 12, 2008.

Therefore, the proposed intervention would not substantially delay the resolution of this matter by the Board and a response by NMU in the suggested time frame may still be considered timely. NMU believes it is both reasonable and important to allow it to intervene in the action at this time. NMU represents that it contacted both petitioner and the Michigan Attorney General's office on behalf of MDEQ regarding this motion. The Attorney General's office indicated it would not oppose the motion. Petitioner indicated it would oppose the motion.

Respectfully submitted.



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Dated this 5th day of September, 2008

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September, 2008, copies of the foregoing Motion to Intervene and Appearance were served by hand delivery to:

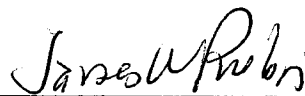
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