

GARVEY McNEIL & McGILLIVRAY, S.C.
634 WEST MAIN STREET, SUITE 101
MADISON, WISCONSIN 53703
(608)256-1003
(608)256-0933 FACSIMILE

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Date: October 10, 2008

Fax To:

Ericka Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1341 G Street, N.W. Suite 600
Washington, D.C. 20005
Fax: 202-233-0121

Kevin J. Finto, Esq.
Hunton & Williams LLP
951 East Byrd Street
Richmond, VA 23219-4074
Fax: 804-788-8218

Neil D. Gordon, Esq.
Department of the Attorney General
Environment Natural Resources and
Agriculture Division
G. Mennen Williams Building, 7th Floor
525 W. Ottawa St.
Lansing, MI 48909
Fax: 517-373-1610

James W. Rubin, Esq.
Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006
Fax: 202-828-3735

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GARVEY McNEIL & McGILLIVRAY, S.C.

ATTORNEYS AT LAW

Edward R. Garvey
Kathleen G. McNeil
Pamela R. McGillivray
Christa O. Westerberg
David C. Bender
Carlos A. Pabellon
Of Counsel:
Peter E. McKeever

October 10, 2008

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ENVIR. APPEALS BOARD

Re: Northern Michigan University
PSD Appeal No. 08-02

Dear Clerk,

Enclosed for filing, please find Petitioner Sierra Club's NOTICE OF MOTION OF PETITIONER TO RECONSIDER AND FOR LEAVE TO EXTEND TIME TO FILE REPLY. If anything further is required, please advise.

Thank you.

GARVEY McNEIL & MCGILLIVRAY, SC


David C. Bender

Counsel for Sierra Club

Enclosures

cc: Counsel of Record



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

IN THE MATTER OF:
NORTHERN MICHIGAN
UNIVERSITY

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APPEAL NUMBER: PSD 08-02

PSD PERMIT NUMBER: 60-07

ENVIR. APPEALS BOARD

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NOTICE OF MOTION OF PETITIONER TO RECONSIDER AND FOR LEAVE TO
EXTEND TIME TO FILE REPLY

PLEASE TAKE NOTICE that I have sent, by overnight courier, to the Clerk of the Environmental Appeals Board a MOTION OF PETITIONER TO RECONSIDER AND FOR LEAVE TO EXTEND TIME TO FILE REPLY on behalf of Petitioner Sierra Club, a copy of which is here with served upon each of the representatives identified for the parties at issue in this case.

October 10, 2008.

Respectfully submitted
GARVEY MCNEIL & MCGILLIVRAY S.C.


David C. Bender

GARVEY MCNEIL & MCGILLIVRAY, S.C.
634 W. Main Street
Madison, WI 53703
608.256.1003
608.256.0933 (fax)
bender@gmmattorneys.com

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

IN THE MATTER OF:
NORTHERN MICHIGAN
UNIVERSITY

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APPEAL NUMBER: PSD 08-02

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October 10, 2008.

Respectfully submitted
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David C. Bender

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634 W. Main Street
Madison, WI 53703
608.256.1003
608.256.0933 (fax)
bender@gmmattorneys.com

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

ENVIR. APPEALS BOARD

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IN THE MATTER OF:
NORTHERN MICHIGAN
UNIVERSITY

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APPEAL NUMBER: PSD 08-02
PSD PERMIT NUMBER: 60-07

MOTION OF PETITIONER TO RECONSIDER AND FOR LEAVE TO EXTEND TIME TO
FILE REPLY

Petitioner, Sierra Club, respectfully moves the Environmental Appeals Board to reconsider its October 10, 2008 Order in this case and for leave to allow Petitioner's untimely reply to the Response of the Northern Michigan University.¹

On September 8, 2008, the Board issued an Order allowing Northern Michigan University to intervene and allowing it to file a Response to the Petition by September 22, 2008. The Order also provided that Petitioner, Sierra Club, may file a reply to Northern Michigan on October 1, 2008. The undersigned counsel for Sierra Club misread the Order as establishing the deadline for reply as October 7th and calendared that date for a response.

Petitioner filed its reply on October 3rd, 2008, mistakenly believing it to be filed *ahead* of the Board's deadline. Today, October 10, 2008, the Board entered an Order correctly noting that Petitioner's reply to Northern Michigan University's brief was not accompanied by an explanation or acknowledgement of the reply's untimeliness, and with no timely efforts to seek modification of the filing date. Petitioner's reply filing contained no explanation or acknowledgement of untimeliness because counsel had not realized, at the time of its filing, that the reply was not timely. Receipt of today's Order was counsel's first indication of his mistake regarding the deadline to reply. This motion followed immediately.

The undersigned counsel apologizes for his mistake and Petitioner respectfully requests that the Board reconsider its Order and allow Petitioner to file its reply out of time. The basis for this motion seeking to file a reply out of time is counsel's inadvertence and mistake.

¹ Northern Michigan University's response was filed with the Board on September 22, 2008, and refiled on September 23, 2008.

WHEREFORE, Petitioner respectfully requests that the Board reconsider its Order dated October 10, 2008 and allow Petitioner's Reply to Northern Michigan University that was filed on October 3, 2008.

Respectfully submitted this 10th day of October, 2008.

GARVEY MCNEIL & MCGILLIVRAY S.C.



David C. Bender

Counsel for Petitioner Sierra Club

634 W. Main Street
Madison, WI 53703
608.256.1003
608.256.0933 (fax)
bender@gmmattorneys.com

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

IN THE MATTER OF:)	
NORTHERN MICHIGAN)	APPEAL NUMBER: PSD 08-02
UNIVERSITY)	
)	PSD PERMIT NUMBER: 60-07

CERTIFICATE OF SERVICE OF PETITIONER'S NOTICE OF MOTION TO RECONSIDER
AND FOR LEAVE TO EXTEND TIME TO FILE REPLY

On October 10, 2008, I caused to be served via Federal Express and Facsimile delivery a copy of the foregoing Notice of Motion and Motion of Petitioner for Leave to File Reply to:

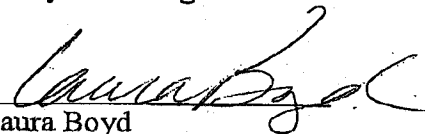
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James W. Rubin, Esq.
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1900 K Street, N.W.
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Fax: 202-828-3735

I declare that the foregoing is true to the best of my knowledge.


Laura Boyd