Before the EPA, and administrative agency with Territorial jurisdiction

In the matter of:	Motion to: reconsider sua sponte review
Dave Erlanson sr.	On the grounds of ineffective assistance
Respondent,	of council and other grounds and for an
	Extension for appeal filing deadline

Comes now Dave Erlanson sr to motion this court to reconsider its declination for sua sponte review. Dave Erlanson sr is untrained in law and was not aware of the filing requirements the EPA cited to me in email exchanges to wit:

From: Angeles, Mary
Sent: Wednesday, November 18, 2020 2:07 PM
To: dave erlanson sr.
Cc: Durr, Eurika; Wright, MichaelB; Clerk EAB
Subject: RE: Service of Order in Dave Erlanson Sr., CWA Appeal No. 20-(03)

Hello Mr. Erlanson:
Thank you for your message. I cannot respond to your email. I am referring this communication to Ms. Durr, Clerk for the EAB for her response to you. I have included also some filing guidance pursuant to C.F.R. Section 23(a). Thank you.

§ 22.30 Appeal from or review of initial decision.

(a) ***Notice of appeal and appeal brief*** -

(1) ***Filing an appeal*** -

(i) ***Filing deadline and who may appeal.*** Within 30 days after the initial decision is served, any party may file an appeal from any adverse order or ruling of the Presiding Officer.

(ii) ***Filing requirements.*** Appellant must file a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board as set forth in § 22.5(a). One copy of any document filed with the Clerk of the Board shall also be served on the Headquarters or Regional Hearing Clerk, as appropriate. Appellant also shall serve a copy of the notice of

> appeal upon the Presiding Officer. Appellant shall simultaneously serve one copy of the notice and brief upon all other parties and non-party participants.

Appellant asks this court for leeway in producing such a voluminous amount of documentation as the Appellant broke his neck in a hunting accident and has been severely restricted in movement. The injury has affected Appellants abilities to accomplish any specific tasks such as reading, sitting for long spans of time, crushing headaches and other painful activities have altered Appellants ability to do what is required in preparing for court cases.

Moreover Appellant does not have council due to his inability to secure assistance that approximates anything close to effective assistance of council *Strickland v. Washington, 466 U.S. 668 (1984).* This Appellant is able to demonstrate that: (1) there was a deficient performance by trial counsel; and (2) prejudice. In determining whether trial counsel's performance was constitutionally deficient, the reviewing court looks to the reasonableness of counsel's conduct under "prevailing professional norms." *Id*. at 688. It is the convicted defendant's duty to identify the acts or omission by counsel that are alleged not to have been the result of reasonable professional judgment. The reviewing court must then judge "the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." *Id*. at 690. To establish prejudice, a convicted defendant "need not show that counsel's deficient conduct more likely than not altered the outcome in the case." *Id*. at 693. Rather, the defendant must establish "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id*. at 694.

Appellant was denied effective assistance of council when his attorney, acting upon his own authority, conspired against the Appellant and WITH the EPA to deprive the Appellant of due process. This denial of due process for something as basic and intrinsic as assistance of council creates a breeding ground of bad behavior in which the citizen gets caught up in administrative agency schemes that have the effect of eroding the Constitutional system from within.

Since the trial judge stated openly in court that much of her accelerated decision was predicated on the fraudulent document as a set of ‘agreed upon material facts’ I would say that the requirements have been met under the Strickland v Washington standard and requires this court to at least consider this motion to reconsider.