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**Law Offices of Kristyn J. Houle, PLC**

1200 W. Eleventh St., Unit 110

Traverse City, MI 49684

Phone: (231) 932-1023

Fax: (231) 932-0465

*kristynhoule@hotmail.com*

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Presque Isle Prosecuting Attorney  
Richard K. Steiger, Esq.  
P.O. Box 110  
Rogers City, MI 49779

Presque Isle County Planning Commission  
P.O. Box 110  
Rogers City, MI 49779

RE: *County Commissioner Alan Bruder*  
Wolverine Power Company Coal Plant Application  
Our File No. 3018.00

Dear Mr. Steiger and Members of the Planning Commission:

On behalf of Ocqueoc Township Board Trustee, Val Jaroch and other concerned citizens of Presque Isle County, please accept this letter as a written request for an investigation into the apparent conflict of interest of Allan Bruder, Chairman of the Presque Isle County Board of Commissioners and his involvement in advocating for the Special Use Permit for a coal plant granted to Wolverine Power Cooperative. Mr. Bruder was an officer and board member of Wolverine at the time he advocated for the Special Use Permit. It is our position that the Chairman has profited from his official position in the County by advocating before the Planning Commission for the Special Use Permit for a company in which he had a direct pecuniary interest. Under Michigan conflict of interest law, the actions of Mr. Bruder nullifies the Planning Commission's decision to grant the SUP, and the SUP is void as a matter of law.

By way of background, Mr. Bruder served as chairman of the board of directors for Wolverine Power Cooperative in 1999 (See **Exhibit 1**). He remained on the board of directors and then became treasurer of the company in 2005. He was treasurer of Wolverine in 2006 (**Exhibit 2**) at the time he signed a "Resolution of Support for Clean Coal Venture" as chairman of the Presque Isle County Board of Commissioners (**Exhibit 3**). The Resolution refers to Wolverine Power Cooperative's Special Use Permit application as "this project" and "this proposed venture" and was sent to the Governor, State Senators and Representatives as well as Wolverine Power Cooperative and the Presque Isle Planning Commission.

Importantly, at the time the Resolution supporting Wolverine was signed by Mr. Bruder (2006), he was being compensated as an officer of Wolverine in the amount of \$24,200.00 (**Exhibit 4**).

Also at that time, Mr. Bruder was serving as the President of Presque Isle Electric & Gas Co-Op which has direct business relationships with Wolverine in the distribution of electricity and natural gas (**Exhibit 5**). The Resolution to support Wolverine was presented to the Presque Isle Planning Commission on the same day that the Planning Commission granted the Special Use Permit to Wolverine. (**Exhibit 6**).

At this point in time, Mr. Bruder is still the chairman of the County Commissioners and upon information and belief, a board member of Wolverine and President of the Presque Isle Electric & Gas Co-op. The coal plant has not been built, and Wolverine is in the process of requesting amendments to the SUP from the County.

It is our legal opinion that the act of sending the Resolution supporting Wolverine to the Planning Commission when they were to decide on Wolverine's Special Use Permit constituted a conflict of interest. This action violates the Public Servant Law which prohibits a public servant from directly or indirectly soliciting any contract between the public entity of which he is an officer or employee and any corporation of which he is an officer or member. MCL 15.322. A violation of the Public Servant Law is a misdemeanor, and we ask that the Prosecuting Attorney's office investigate this matter on behalf of the constituents of Presque Isle County.

Additionally, Mr. Bruder's blatant advocacy of the Special Use Permit for Wolverine (via the signed Resolution in support of Wolverine's SUP) constitutes duress *as a matter of law* on the Planning Commissioners. The County Board of Commissioners is charged with appointing and removing members of the Planning Commission (MCL 125.3815). The presentation to the Planning Commissioners of the Resolution of Support outlining the arguments in favor of granting the SUP and signed by Bruder is similar to Bruder showing up at the Planning Commission meeting and advocating for Wolverine's Special Use Permit. Due to his power to appoint and remove Planning Commission members, the signed resolution presented to the Commission was duress as a matter of law and the Special Use Permit granted to Wolverine is void *ab initio*.

In a similar case, a city commissioner advocated before a zoning board of appeals for a special exception for his brother's property. *Barkey v Nick*, 11 Mich App 381, 161 NW2d 445 (1968). The Zoning Board of Appeals granted the special exception and was then sued by a neighboring property owner opposed to the special exception. The Court in *Barkey* agreed with the Plaintiff, that there had been an imposition of duress on the members of the board by the city commissioner, not as a matter of fact, but *as a matter of law*, and that the consequence of that duress was that the action of the board was void. There, the court stated:

It creates an abuse of trust imposed by the assumption of public office and creates a personal pecuniary interest conflicting with the fiduciary duty owed all members of the public. Further, it creates doubt in the public mind as to the impartiality of the board's action. It is squarely within the concern of government that care be exercised to prevent enhancing the potential of those who would seek to profit from enterprises in ways which are offensive to the public conscience.

*Id* at 385-86.

In *Abrahamson v Wendell*, the Court voided a zoning board's decision because the supervisor of the township advocated on behalf of the applicant for a variance. *Abrahamson*, 72 Mich App 80, 249 NW2d 302 (1977). There, the township supervisor had a direct pecuniary interest in the application as contractor for the applicant. The Court held that the appearance of the supervisor before the board constituted duress as a matter of law so as to void the decision.

The *Abrahamson* court, stated:

It is difficult to believe the supervisor did not in fact have a conflict of interest between personal profit and public duty. Nevertheless, as a matter of law, the appearance by the supervisor before the body over which he has appointive powers, at least in part, must be deemed an imposition of duress on the members of the zoning board of appeals, and as a result the action of the board is void. *Id* at 83.

In a recent local case, Judge Thomas Power in Charlevoix County Circuit Court voided a Special Use Permit for a Limestone Quarry that the Norwood Township Supervisor applied for as his personal venture. *Norwood Township Citizens for Health and Safety v Norwood Township, et al.*, Charlevoix County Circuit Court, Case No. 07-818-21-CZ. In that case, Judge Power held that the SUP was void because of the "appearance of impropriety" in the Supervisor appearing before the Planning Commissioners to advocate for his Special Use Permit.

Again, it is our position that the actions of Mr. Bruder in advocating for Wolverine's SUP before the Planning Commissioners is a direct conflict of interest and the SUP given to Wolverine is void as a matter of law. At this point in time, Wolverine does NOT have a permit to build their proposed Coal Plant. Any action toward building the plant without the requisite permit will be met with further opposition as our clients intend to protect their rights to the fullest extent of the law.

Thank you for your cooperation and attention to this matter.

Very truly yours,

Kristyn J. Houle

cc: clients  
Attorney General Mike Cox  
Governor Jennifer Granholm  
State Senator Jason Allen  
State Representative Matthew Gillard  
Wolverine Power Cooperative