AFFIDAVIT OF KATRYN E. FRAHER

Katryn E. Fraher, having been duly sworn, hereby states as follows:

1. I have personal knowledge of the facts set forth below, and if called to testify could and would testify competently thereto.

2. I am a member of Students for New Mexico Public Interest Research Group ("Students for NMPIRG"), a student group at the University of New Mexico at Albuquerque ("UNM") that conducts its own issue-oriented campaigns and participates in issue-oriented campaigns conducted by the New Mexico Public Interest Research Group ("NMPIRG"), which is a 501(c)(4) organization, and the New Mexico Public Interest Research Group Education Fund ("NMPIRG Education Fund"), which is a non-partisan 501(c)(3) organization.

3. I have been a member of Students for NMPIRG since the fall of 2005, and have played a key role in coordinating voter registration efforts that we have conducted on behalf of the NMPIRG Education Fund since that time. I was the President of Students for NMPIRG from fall 2005 through spring 2007, and I continue to do work for Students for NMPIRG in an administrative capacity and as a coordinator of various issue campaigns.

4. As far as I am aware, Students for NMPIRG is the only group presently conducting voter registration drives for the NMPIRG Education Fund, and we are the only group that has done so since the 2004 election. I understand that a group of students at New Mexico State University in Las Cruces may eventually seek to join in conducting voter registration activities for the NMPIRG Education Fund.
New Mexico Public Interest Research Group Education Fund

5. The NMPIRG Education Fund is a non-partisan, non-profit 501(c)(3) charitable organization incorporated in New Mexico and headquartered in Albuquerque that funds campaigns to protect consumers and promote good government. The organization seeks to provide a voice on behalf of the public interest, as opposed to special interests. The NMPIRG Education Fund identifies problems and solutions, educates the public on important policy issues, and attempts to offer New Mexico residents opportunities for civic participation. Its sister organization NMPIRG, which is also incorporated in New Mexico and headquartered in Albuquerque, has a similar mission, but is organized as a 501(c)(4) entity. Students for NMPIRG participates in campaigns run by both NMPIRG and the NMPIRG Education Fund, and we also initiate some of our own campaigns.

6. Students for NMPIRG presently has approximately 1,500 students in its mailing database and about 200-300 students who we refer to as members because they have worked for more than an hour on our campaigns. We have a core group of around 20-30 members.

7. The campaigns in which we participate – whether voter registration drives, environmental petitions, or fundraising efforts – frequently involve the need to communicate our message to as many students as possible. One way that we do this is through a process called “tabling,” in which we set up a table in a public place, such as the UNM Student Union, to engage students regarding the subject of the campaign. The other principal way that we communicate with students is by sending individual
canvassers with clipboards out into public places, such as the UNM campus walkways, to communicate with passersby.

8. Our campaigns are important not only because of the issues we advocate, but also because we use these campaigns to recruit new volunteers and members for Students for NMPIRG. Whenever someone agrees to register to vote, for example, we also ask them if they would like to fill out a “General Interest Card,” in which we ask which of our issue campaigns they are interested in assisting. In my experience, as many as one in three students who agree to sign a petition or register to vote will also fill out a General Interest Card. We add the name of anyone who fills out a General Interest Card to our database and, to the extent that person works on one of our campaigns for more than an hour, we consider him or her to be a member of Students for NMPIRG.

9. I have found that the key to running a successful campaign is the recruitment of casual volunteers to join our 20-30 core organizers in canvassing efforts. Without volunteers, the core organizers cannot accomplish nearly as much. Although it can be difficult to convince students to devote large, contiguous portions of their time to any specific cause, I have found that many students are amenable to contributing several hours here and there to our campaigns, sometimes on a Saturday or Sunday. We have even sometimes been able to spontaneously recruit volunteers in the middle of an afternoon campaign to help out for a few hours.

10. By maximizing the number of student volunteers tabling or canvassing on behalf of our campaigns, we are able to reach the maximum number of students with our message.
NMPIRG Education Fund’s Voter Registration Activities

11. One of the NMPIRG Education Fund campaigns in which we participate is the “New Voters Project.” The New Voters Project is a non-partisan voter registration campaign organized by “the Student PIRGS,” a national federation of the Student PIRG organizations in various states. Because there is currently no Student PIRG chapter in the state of New Mexico, we participate in the New Voters Project through the NMPIRG Education Fund, which has provided us with funding for a paid organizer in certain semesters to assist in voter registration efforts. Eventually, we would like to start a Student PIRG chapter in New Mexico if we can get sufficient funding.

12. Students for NMPIRG seeks to register voters through the same tabling and canvassing process that we use for other issue campaigns. Certain events are particularly conducive to voter registration efforts. For instance, we usually register 250 or more new voters (including some parents) during freshmen orientation each fall.

13. When we engage in tabling and canvassing to register voters, we are encouraged to have a “rap,” or a personalized method of asking people to get registered to vote. For instance, I like to begin by simply asking people if they are registered to vote. This question frequently leads to a conversation in which people ask me why they should vote, or express cynicism about the voting process. I explain to them why voting is important, and how it is the only way to change policies that they may not agree with. I also frequently explain to people facts about the process of voting itself – for instance, many people do not know the date of upcoming elections, and many people do not realize that they do not have to be 18 to register to vote, so long as they will be 18 at the time of the
next election. Because we are a non-partisan organization, I avoid talking about specific candidates. However, I do frequently tell prospective voters some of the projects we are working on in an effort to get them to join our organization.

14. In addition to tabling and canvassing, we also register voters in classes—particularly large freshman classes. I get permission from the professor before addressing a class. If the professor agrees, I talk to the class about civic responsibility and why it is important to register to vote. In particular, I like to point out that a really large percentage of our nation is under 30, but that we are vastly under-represented in the electorate. I also explain that I am with Students for NMPIRG, and I describe what we do in our specific issue campaigns, in case anyone wants to fill out a General Interest Card in addition to registering to vote. After I am done speaking for a few minutes, students who would like to register to vote or fill out General Interest Cards raise their hands, at which point I hand out voter registration forms and General Interest Cards and then collect them.

The Effect of New Mexico's Third-Party Voter Registration Law on the NMPIRG Education Fund's Voter Registration Activities

15. Since the enactment of the new law in summer 2005, Students for NMPIRG and the NMPIRG Education Fund have registered fewer students than we would have in the absence of the law. Specifically:

a. In fall semester of 2005, Students for NMPIRG, along with our paid organizer, Erin Eccleston, registered only approximately 600 people. I am confident that we would have had more volunteers helping our effort and would have registered more students to vote if not for the New Mexico
statute.

b. In the fall semester of 2006, Students for NMPIRG, along with our paid organizer, Jamison Tessner, registered approximately 1,000 new voters. I am confident that we would have had more volunteers helping our effort and would have registered more students to vote if not for the New Mexico statute.

c. In 2008, we again expect to have a paid organizer, and would like to register approximately 5,000 people in advance of the presidential election. We will register fewer voters than we could in the absence of the New Mexico statute, and we may not be able to reach this goal.

16. One reason why we have registered fewer voters under the new law is that the new law makes it very difficult for us to recruit casual volunteers who are essential to our voter registration drives. Although students have generally proven willing and able to help with a few hours of their time here and there, it is nearly impossible to get enough students to spend the time necessary to get certified either downtown or at a designated training session – all in advance of the actual voter registration canvassing. The new law’s certification requirement destroys the spontaneity that is one of the keys to our campaigns.

17. For instance, I first learned about the new law on August 21, 2005, when I was planning to register voters at a campus-orientation event for incoming freshmen. I had arranged in advance of the event for a number of student volunteers to help me register voters that day. However, before the event got underway, I received a call from
Jeanne Bassett, the Executive Director of NMPIRG and the NMPIRG Education Fund, who told me that neither I nor any of our volunteers could register voters until we were certified. We had to cancel our plans to conduct voter registration that day.

18. Although I attended a mandatory registration training session and got certified on August 22, 2005, there are a number of reasons why it is difficult to get substantial numbers of student volunteers who are more casually involved in Students for NMPIRG certified:

a. With the exception of three on-campus registration sessions since 2005, the training is typically given only at the County Clerk’s office in downtown Albuquerque. It is difficult to walk to the training location from campus, and the bus ride to the training can take as long as 30 minutes each way. The bus can also be particularly difficult for disabled students. For instance, I have chronic arthritis, and am sometimes unable to use the public transportation in Albuquerque. For those students who may have a car, there is limited street parking at the County Clerk’s office, and many students are not willing to pay for parking to attend training.

b. Training sessions at the County Clerk’s Office are typically given only twice per week, and only during business hours. Training sessions are held on Tuesday and Thursday afternoons. Because class schedules are usually the same on those days, students who cannot attend a training on one day frequently cannot make it on either day. Moreover, students who have jobs have great difficulty attending these classes.
c. Even students who have cleared time to attend training sessions have often found that the sessions are cancelled at the last minute, sometimes without advance warning. Individuals are required to register for the classes 24 hours or more in advance, and classes are frequently canceled when the County Clerk’s office determines that there is going to be insufficient attendance. Students who come to the class even a little bit late have been denied admission altogether.

d. The training session itself – at least the one I attended on August 22, 2005 – is intimidating. I recall that the instructor told us about the new law’s 48-hour return requirement and explained that if we lost just one form, or if we didn’t return all of our forms within 48 hours, we would be guilty of a felony. I do not remember any mention of any fine or penalty less severe than a felony.

19. In 2005, apart from our paid organizer, I was the only member of Students for NMPIRG who was certified to register voters. Since 2005, we have been able to get more of our members certified. During the height of our voter registration activities in 2006, we had as many as 35 certified members of Students for NMPIRG. We currently have 15-20 certified members, and we hope to get up to 50 certified members for our fall 2008 voter registration activities. These numbers have been achieved in part because of the County Clerk’s willingness to hold a training session on campus in 2006, and two different sessions so far in 2008. I am grateful for the County Clerk’s assistance, but despite the County’s Clerk’s efforts, we are still not able to get a large enough number of
casual registration-drive volunteers certified.

20. Even though we had 35 certified members in 2006, not all of those 35 members ultimately worked with Students for NMPIRG to register voters. Moreover, of the members who did work with Students for NMPIRG, we rarely had more than a fraction of those registered members available in any one voter canvassing day. Most of our volunteers on any given day are casual volunteers who are not certified and cannot directly register votes. We still try to use these volunteers by asking them to walk around campus and bring prospective voters back to a table where a certified student can help students to fill out voter registration forms. The fact that most of our student volunteers cannot fill out registration forms, however, makes them much less productive than a certified canvasser would be. It is hard enough to convince someone to register to vote using a clipboard with voter registration forms. It is even harder to ask a student to walk across the campus to a remote table to register to vote.

21. Apart from the effects of the certification requirement, the new law’s requirement that we only obtain 50 forms at a time has also limited the number of voters that Students for NMPIRG has registered. On the same day that I attended my training session, I called the County Clerk’s office to ask if I could use the federal form available online, instead of the state forms to which access is restricted, but was told that I should use the state voter registration form. During voter registrations drives in 2005 and 2006, we routinely ran out of New Mexico voter registration forms and would have to suspend operations until we could get more forms. After forms were completed, I would often review the forms, enter the voters’ names and addresses into our computer database, and
then take the forms downtown to the County Clerk's office. This process usually took an hour. Then I would return to the table with more forms from the County Clerk's office and start to register voters again. It was a very inefficient process.

22. Since the fall of 2006, the County Clerk's office has allowed me to take out as many as 200 voter registration forms at a time. Prior to that time, I was only allowed to take out 50 forms at a time, and I am not aware of any other students who have been permitted to take out more than 50 forms at a time. This increased number of forms is sufficient, given our present volume this semester. However, it is unclear whether 200 forms are going to suffice when our operations are in full swing in the fall of 2008. In addition, there is no guarantee that the County Clerk's office will continue to allow me to take out 200 forms at a time. If the County Clerk's office continues to limit the number of forms we can take out at a time, then our registration efforts will be severely burdened, and we will register fewer voters than we otherwise could.

23. The new law's 48-hour-return requirement also reduces the number of new registrations that Students for NMPIRG can collect and process. Before returning voter registration forms, Students for NMPIRG members must count them, review them, enter the information into our database, and return them. Complying with the 48-hour deadline gives us less time to review forms.

24. In order to meet the 48-hour deadline in 2006, I often missed class and skipped other activities in order to get the forms in on time. I believe that others student had a similar experience. The 48-hour-return requirement significantly cut into Students for NMPIRG's other activities in 2006 because of the time required to get the forms in
within 48 hours. For example, in 2006, we did not have time to train new volunteers or phone bank because we were spending time attempting to get forms turned around quickly. As Students for NMPIRG President at the time, I decided to prioritize voter registration, but the onerous requirements of the law meant that we lost members who were unhappy doing the additional clerical work, and who were unable to work on other campaigns that interested them more.

25. In addition to the rigors of the 48-hour deadline itself, the civil and criminal penalties associated with failure to turn in a form within 48 hours have also led us to lose volunteers. We do our best to try to return forms within the prescribed 48-hour period, but the reality is that in our small, hectic office, forms are sometimes misplaced for a day or two. On more than one occasion, students have come to me in tears because they momentarily neglected certain registration forms that they collected, rendering the forms more than 48 hours old. For instance, in the fall of 2006, one student came to me and told me that she had found 2-3 forms in her backpack that were collected a week ago. She was hysterical because she was afraid of the penalties that might be imposed. I was able to calmly talk to the County Clerk’s office and explain the situation, and the office accepted the forms without penalty. However, to my knowledge, that student has never volunteered for Students for NMPIRG again since that time.

26. Based on my knowledge of the students that conduct our voter registration drives, I believe that if a $250 penalty or a criminal penalty were ever applied against one of Students for NMPIRG’s members, many of our students would permanently stop registering voters.
The foregoing is true and correct to the best of my knowledge.

Katryn E. Fraher

Sworn to before me this 26th day of June, 2008 in Albuquerque, NM

Notary Public

[Stamp: OFFICIAL SEAL
ROBERT GALLEGOS
Notary Public
State of New Mexico
My Comm. Expires 12/22/09]