

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

In re West Bay Exploration Company

Traverse City, Michigan

West Bay 22 SWD

Permit No. MI-075-2D-0009

Appeal No. UIC 13-01, 13-02

PETITIONER'S MOTION TO DENY WITHDRAWAL OF PERMIT
BY REGIONAL ADMINISTRATOR

Peter Bormuth – Petitioner

In Pro Per

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ENVIR. APPEALS BOARD

PETITIONER'S MOTION TO DENY WITHDRAWAL OF PERMIT BY REGIONAL ADMINISTRATOR

Petitioner, Peter Bormuth, proceeding *pro se*, respectfully files this Motion To Deny Withdrawal Of Permit # MI-075-2D-0009 by the Region 5 Administrator in UIC Appeal Nos. 13-01, 13-02.

Petitioner's basis for this Motion is REVISED RULE 40 CFR 124.19(j) effective March 26, 2013, which states: (j) *Withdrawal of permit or portions of permit by Regional Administrator.* The Regional Administrator, **at any time prior to 30 days after the Regional Administrator files its response to the petition for review under paragraph (b) of this section**, may, upon notification to the Environmental Appeals Board and any interested parties, withdraw the permit and prepare a new draft permit under § 124.6 addressing the portions so withdrawn. The new draft permit must proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part. Any portions of the permit that are not withdrawn and that are not stayed under § 124.16(a) continue to apply. If the Environmental Appeals Board has held oral argument, the Regional Administrator may not unilaterally withdraw the permit, but instead must request that the Environmental Appeals Board grant a voluntary remand of the permit or any portion thereof.

The Petitioner notes he filed his Petition For Review on January 7, 2013 with the EAB. He further notes that the Regional Administrator, through Associate Regional Counsel Kris P. Vezner, filed their Response to the Petition For Review on February 25, 2013. Finally the

Petitioner notes that the EPA filed their Withdrawal of Permit by the Regional Administrator on April 8, 2013. REVISED RULE 40 CFR 124.19(j) clearly states that the Regional Administrator must take this action within 30 days of filing its response to Petitioner's Petition for Review. Since the EPA has failed to meet this standard, the EPA's Withdrawal of Permit by the Region 5 Administrator must be denied by the Environmental Appeals Board.

Petitioner notes that he contacted Anna Miller, EPA Permit Writer by e-mail on April 16, 2013 requesting concurrence with this Motion and contacted Kris P. Vezner by e-mail on April 17, 2013 requesting concurrence with this Motion.

WHEREFORE for the above stated reasons, the Petitioner respectfully requests that the EAB grant his Motion To Deny Withdrawal Of Permit By The Regional Administrator.

Respectfully submitted,



Peter Bormuth

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Dated: April 17, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2013, I mailed copies of my Motion To Deny Withdrawal Of Permit By Regional Administrator to Kris P. Vezner, Associate Regional Counsel, U.S. EPA, Region 5, 77 W. Jackson Blvd. (C-14J), Chicago, IL 60604 by regular mail.

By: Peter Bormuth

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Dated April 17, 2013