

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

In the Matter of:)

West Bay Exploration Co. of)

Traverse City, Michigan)

Haystead #9 SWD)

Permit No. MI-075-2D-0010)

Jackson County, Michigan)

Permit Appeal No. UIC 14-66

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**PETITIONER PETER BORMUTH'S CORRECTED RESPONSE TO YERMAN MOTION TO FILE
UNTIMELY PETITION FOR REVIEW UIC 14-67**

The Petitioner, Peter Bormuth, objects to the filing of untimely Petition for Review UIC 14-67 and respectfully requests that the Environmental Appeals Board deny the Yerman Motion To File untimely Petition For Review UIC 14-67

In support of this request to deny, the Petitioner states as follows:

1. After a public comment period that ended May 3, 2013, Region 5 issued a final permit to the Permittee, West Bay Exploration Co. for the Haystead #9 SWD on April 9, 2014 [Permit No. MI-075-2D-0010]. The Region simultaneously issued a Response to Public Comment document summarizing the Agency's responses to all public comments received on the proposed action.

2. On May 8, 2014 the Petitioner, Peter Bormuth of Jackson Michigan filed a Petition for Review with the EAB seeking review of the Haystead #9 Permit [EAB Appeal No. UIC 14-66].
3. On May 14, 2014, an untimely Petition for Review was filed with the EAB by Christian scum Sandra K. Yerman of Brooklyn Michigan seeking review of the Haystead #9 Permit [EAB Appeal No. UIC 14-67]. When determining whether to grant review of petitions filed the Board must first consider whether each petitioner has fulfilled certain threshold procedural requirements including timeliness, standing, and issue preservation. See 40 C.F.R. 124.19(a); *accord In re Circle T Feedlot, Inc.*, NPDES Appeal Nos. 09-02 & 09-03, slip op. at 4 (EAB June 7, 2010), 14 E.A.D.; *In re Avon Custom Mixing Servs.*, 10 E.A.D. 700, 704-08 (EAB 2002).
4. 40 CFR Section 124.19 gives a petitioner 30 days to file. Petitioners served by mail are granted an additional 3 days. The EPA/EAB regards petitions filed the date they are received, not the date they are mailed. 30 days from April 9, 2014 is May 9, 2014. Three additional days extends the deadline to May 12, 2014. Yerman filed on May 14, 2014. This is untimely. I find the EAB's willingness to allow Yerman to bend the rules prejudicial. The government is supposed to be neutral in matters of religion. Yerman certainly has the right to make comments and file a petition for review but that Christian scum should be required to file in a timely manner, just like everyone else. Failure to file a petition for review by the filing deadline will ordinarily result in dismissal of the petition on timeliness grounds, as the Board strictly construes threshold procedural requirements. (see *In re*

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Town of Marshfield, NPDES Appeal No. 07-03, at 4 (Mar. 27, 2007) (Order Denying Review); *In re Puma Geothermal Venture*, 9 E.A.D. 243, 273 (EAB 2000).

5. Each time Yerman tries to file an untimely Petition for Review, she uses the argument that the EPA did not notify her or the EPA gave her the wrong address. This time this Christian scum claims the April 9, 2014 letter of notification has the wrong address for express mail. This is another Christian lie!!!!!! The EPA April 9, 2014 letter speaks for itself. The address is correct.
6. On May 22, 2014, Petitioner Yerman filed a Motion to Allow Filing of her Untimely Petition [EAB Appeal No. UIC 14-67]. 40 CFR Section 124.19(f) states that in advance of filing a motion, parties must attempt to ascertain whether the other party(ies) concur(s) or object(s) to the motion and must indicate in the motion the attempt made and the response obtained. Yerman did not contact this Petitioner, thus violating procedural rules.
7. Petitioner has been through this dance before. After a public comment period that ended June 1, 2012, EPA Region 5 issued a Response to Comments document on an identical well, West Bay #22 [Draft Permit No. MI-075-2D-0009]. Region 5 EPA then issued the final permit on December 10, 2012. Petitioner then filed a timely Petition for Review on January 8, 2013 (UIC 13-01) containing virtually all of the same arguments of material fact as contained in his current Petition for Review [EAB Appeal No. UIC 14-66].
8. On February 13, 2013, 35 days after the effective date of January 9, 2013, the EPA & the EAB allowed Christian scum Sandra K. Yerman to file an untimely Petition for Review (UIC 13-02) on West Bay #22 [Draft Permit No. MI-075-2D-0009]. Yerman used the argument

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that the EPA did not send a Response To Comment Document to her correct address to justify her untimely filing.

9. On February 25, 2013 Region 5 Associate Regional Counsel Kris P. Vezner filed a Response to the Petitioner's Petition for Review UIC 13-01. On April 8, 2013 Region 5 Director Tinka Hyde sent the Petitioner a letter of notification of the withdrawal of Permit No. MI-075-2D-0009. This action was taken under the authority of 40 C.F.R. § 124.19(j), a new subsection replacing 40 C.F.R. § 124.19(d) under the final rule published in the Federal Register by the EPA on January 25, 2013 which went into effect on March 26, 2013. This rule [40 C.F.R. § 124.19(j)] requires a Region to withdraw a permit by motion after 30 days have expired from the Region's Response to a Petition for Review. Because of Yerman's untimely filing, the EPA ignored this requirement.
10. On April 16, 2013 the EAB issued an order Dismissing Petitions 13-01 and 13-02 for Review as Moot. On April 23, 2013 the Petitioner filed a Motion for Reconsideration under 40 C.F.R. § 124.19(m). On May 29, 2013 the EAB issued an Order Denying Reconsideration
11. Making a pro se error of jurisdiction, on June 25, 2013 the Petitioner filed a complaint in U.S. District Court for the District of Columbia. Petitioner thereafter filed a motion to transfer the case to the Sixth Circuit Court of Appeals, which was granted on November 26, 2013. The Sixth Circuit docketed the Petition for Review as Case #13-4411 on December 4, 2013 and briefing is ongoing.
12. The Petitioner has been repeatedly prejudiced the EAB. Christian scum Sandra K. Yerman was allowed to file untimely comments on West Bay #22 [Draft Permit No. MI-075-2D-0009] on June 4, 2012. The EAB allowed Christian scum Yerman to file an untimely Petition

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for Review (UIC 13-02) on West Bay #22 [Draft Permit No. MI-075-2D-0009] on February 13, 2013. The EPA used Christian scum Yerman's Petition to withdraw the West Bay #22 well on April 8, 2013 without making the required Motion under the authority of 40 C.F.R. § 124.19(j). The EAB upheld that illegal withdrawal on April 16, 2013 issuing an order Dismissing Petitions 13-01 and 13-02 for Review as Moot. And now the EAB is going to allow this Christian scum to file another untimely Petition which prejudices this Pagan Petitioner?????

13. Yerman is not trying to stop Haystead #9 SWD [Permit No. MI-075-2D-0010]. All of Yerman's actions are designed to destroy Petition UIC 14-66, just like her Petition for Review UIC 13-02 of West Bay #22 was designed to destroy the Petitioner's Petition for Review UIC 13-01. It is almost comical. Here she comes again with an untimely Petition, to sabotage my timely Petition. This time she comes with the baggage of my third argument (earthquakes) made during the comment period. I determined that the EPA Response to this argument was sufficient for the time being until more evidence emerges. I had a file containing extensive material on injection wells which have caused earthquakes, but given the known Michigan geology at the Haystead #9 site, I declined to bring my argument forward at this time. Yerman now comes with an argument that is virtually undocumented, and then attributes it to me. Yerman's argument has already been adequately responded to by the EPA in their Response document. Yerman also brings a new technical argument that there are vertical channels adjacent to the well bore. This Petitioner thought that Petitioners must demonstrate, by providing specific citation to the administrative record, including the document name and page number,

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that each issue being raised in the petition was raised during the public comment period to the extent required by §124.13. For each issue raised that was not raised previously, the petition must explain why such issues were not required to be raised during the public comment period as provided in §124.13. Yerman's argument lacks any research and was not brought during the open comment period. Therefore Yerman's Petition will be denied by the EAB on other grounds besides timeliness. There is no compelling reason to docket this untimely petition.

WHEREFORE the Petitioner, Peter Bormuth, for the forgoing reasons respectfully requests the Yerman Motion to File Untimely Petition for Review be **denied** by the EAB.

Respectfully submitted,



Peter Bormuth

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Dated: May 30, 2014

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CERTIFICATE OF SERVICE

I, Peter Bormuth, do hereby certify that on May 30, 2014, I sent a copy of Petitioner's Response to Yerman Motion to File Untimely Petition to John P. Steketee, Associate Regional Counsel, U.S. EPA, Region 5 (C-14J), 77 West Jackson Blvd., Chicago, IL 60604-3590 by regular mail.

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Dated: May 29, 2014