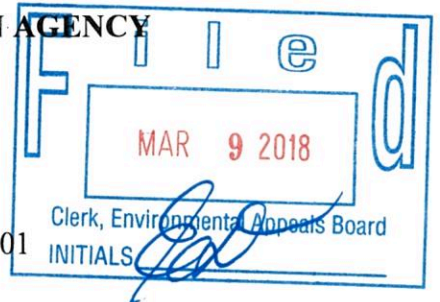


**ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**



\_\_\_\_\_  
In re: )

West Bay Exploration Co., Haystead #9 )  
SWD )

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

UIC Appeal No. 18-01

**ORDER**

Mr. Peter Bormuth requested that the U.S. Environmental Protection Agency<sup>1</sup> terminate Underground Injection Control Permit No. #MI-075-2D-0010 under section 124.5 of title 40 of the Code of Federal Regulations. Stating that he has had no response to his request from EPA's Region 5 in fourteen months, Mr. Bormuth has informally appealed his termination request by submitting a letter to that effect with the Environmental Appeals Board.

Mr. Bormuth filed his informal letter appeal with the Board on January 16, 2018. On February 1, 2018, we ordered EPA Region 5 to respond to the informal appeal and gave Mr. Bormuth the opportunity to file a reply to the Region's response. *In re W. Bay Explor. Co.*, UIC Appeal No. 18-01 (EAB Feb. 1, 2018) (Order for Additional Briefing). This additional briefing was completed on February 26, 2018, and the matter is now ready for consideration by the Board. The Board will issue an order addressing the claims in Mr. Bormuth's informal appeal.

---


<sup>1</sup> Mr. Bormuth states in his informal appeal that he filed his request for termination with the EPA Administrator, the Acting Regional Administrator for EPA's Region 5, and the Water Division Director for Region 5. Petitioner Peter Bormuth's Informal Letter of Appeal Under 40 CFR § 124.5, at 1 (Jan. 16, 2018). Region 5 issued the challenged permit.

Under section 124.5, a letter appeal to the Board “shall be considered denied if the Environmental Appeals Board takes no action on the letter within 60 days after receiving it.” 40 C.F.R. § 124.5(b). A Board request for supplemental briefing constitutes sufficient “action” necessary to keep this matter alive beyond the sixtieth day. *In re Waste Techs. Indus.*, 5 E.A.D. 646, 655 n.13 (EAB 1995) (order for supplemental briefing is sufficient action for purposes of the sixty-day period specified in 40 C.F.R. § 124.5(b)); *In re Los Alamos Nat’l Sec., LLC*, NPDES Appeal No. 17-05, at 2 n.1 (EAB Sept. 25, 2017) (Order Extending Time for Additional Briefing); *In re ArcelorMittal Cleveland, Inc.*, NPDES Appeal No. 11-01, at 1 n.1 (EAB Sept. 8, 2011) (Order for Additional Briefing). The sixtieth day following the receipt of Mr. Bormuth’s informal appeal is March 17, 2018. This order confirms that the Board has taken action on Mr. Bormuth’s informal appeal prior to sixty days from the Board’s receipt of the appeal, here by requiring supplemental briefing on February 1, 2018. Accordingly, the provision in section 124.5(b) stipulating that an informal appeal will be considered denied if the Board takes no action before the sixtieth day from receipt of such an appeal is inoperative as to Mr. Bormuth’s informal appeal, and this matter remains alive until the Board issues a final order on the informal appeal.

So ordered.

Dated: MAR - 5 2018

**ENVIRONMENTAL APPEALS BOARD**

By:   
Kathie A. Stein  
Environmental Appeals Judge

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing **ORDER** in the matter of West Bay Exploration Company, Haystead #9 SWD, UIC Appeal No. 18-01 were sent to the following persons in the manner indicated:

**By U.S. First Class Mail:**

Peter Bormuth  
142 West Pearl Street  
Jackson, MI 49201  
Earthprayer@hotmail.com

Timothy Brock  
West Bay Exploration Company  
13685 South West Bay Shore Dr.  
Suite #200  
Traverse City, MI 49684  
Tim@wbeco.net

**By Pouch Mail:**

John Steketee  
Office of Regional Counsel  
USEPA REGION 5  
77 West Jackson Boulevard  
Mail Code: C-14J  
Chicago, IL 60604-3507  
Steketee.john@epa.gov

Dated: **MAR - 9 2018**

  
\_\_\_\_\_  
Annette Duncan  
Administrative Specialist