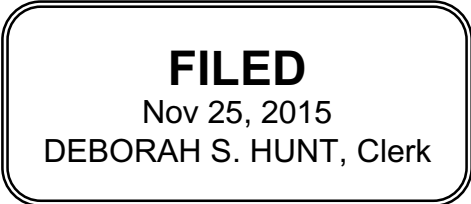


## **Attachment B-6**

No. 13-4411

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT



PETER CARL BORMUTH, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ENVIRONMENTAL APPEALS BOARD; TINKA )  
 G. HYDE, Director, Region 5 Water Division; )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondents. )  
 )

ORDER

Before: COLE, Chief Judge; MOORE and WHITE, Circuit Judges.

Peter Carl Bormuth petitions for a rehearing of this court’s order that denied his petition for judicial review of the dismissal of his administrative appeal by the Environmental Appeals Board (“the Board”).

In 2011, the West Bay Exploration Company applied for an underground injection control permit under the Safe Drinking Water Act. *See* 42 U.S.C. §§ 300f-300j. In 2012, a regional office of the Environmental Protection Agency (“Region 5”) issued a permit for the proposed well, which was designated “West Bay #22.” Bormuth and Sandra Yerman filed separate petitions for administrative review arguing that the permit should be revoked.

Before the Board had ruled on either petition, Region 5 advised Bormuth that it had decided to withdraw the permit for West Bay #22. *See* 40 C.F.R. § 124.19(j). On April 16, 2013, the Board dismissed both petitions as moot because the permit had been withdrawn. The petitioners’ motions for reconsideration were denied, and Bormuth sought judicial review.

No. 13-4411

- 2 -

We determined that Bormuth had not met his burden of establishing standing for judicial review because he did not show that he was actually injured by the decision to withdraw the permit or by the Board's subsequent decision to dismiss his petition as moot. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *Levine v. U.S. E.P.A.*, 59 F. App'x 665, 667 (6th Cir. 2003).

Bormuth now argues that he has standing because Region 5 "reissued" the West Bay #22 permit. However, a review of the EPA's website confirms the government's assertion that the permit has not been reissued. Bormuth also argues that he has standing because Region 5 issued a permit for the "Haystead #9" well near the proposed site of West Bay #22. This argument is unavailing because he did not seek judicial review of the administrative decision regarding Haystead #9 in this case. Finally, Bormuth argues that his rights were violated in the administrative proceedings and that the alleged violation of his right to due process is sufficient to establish standing. The alleged procedural violations are insufficient to establish standing because Bormuth was not injured by the decision to withdraw the West Bay #22 permit or by the Board's subsequent decision to dismiss his administrative appeal as moot. *See Summers v. Earth Island Inst.*, 555 U.S. 488, 496-97 (2009).

Bormuth has not shown that this court misapprehended any point of law or fact in denying his petition for judicial review. *See Fed. R. App. P. 40(a)*. Accordingly, the rehearing petition is denied.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: November 25, 2015

Mr. Peter Carl Bormuth  
142 W. Pearl Street  
Jackson, MI 49201

Mr. Jon Michael Lipshultz  
U.S. Department of Justice  
Environment & Natural Resources Division  
P.O. Box 7611  
Washington, DC 20044

Re: Case No. 13-4411, *Peter Bormuth v. Environmental Appeals Board, et al*  
Originating Case No. : 13-01 &13-02

Dear Counsel and Mr. Bormuth,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Jill Colyer  
Case Manager  
Direct Dial No. 513-564-7024

Enclosure