

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

ENVIR. APPEALS BOARD

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**In re West Bay Exploration Company**

**Traverse City, Michigan**

**West Bay 22 SWD**

**Permit No. MI-075-2D-0009**

**Appeal No. UIC 13-01**

**PETITIONER'S MOTION TO STAY EAB ORDER OF 4-16-13  
ALLOWING WITHDRAWAL OF PERMIT BY REGIONAL ADMINISTRATOR**

Peter Bormuth – Petitioner

*In Pro Per*

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**PETITIONER'S MOTION TO STAY EAB ORDER OF 4-16-13 ALLOWING WITHDRAWAL OF PERMIT  
BY REGIONAL ADMINISTRATOR AND DISMISSING APPEAL NO. 13-01 AS MOOT**

**INTRODUCTION**

Petitioner, Peter Bormuth, proceeding *pro se*, respectfully files this Motion To Stay of EAB Order dated 4-16-13 Dismissing Petition UIC Appeal No. 13-01 as Moot. The Petition involves a UIC permit application for a Class II Oil Waste Disposal Well filed by West Bay Exploration Co. of Traverse City Michigan for the purpose of non-commercial disposal of brine from multiple producing wells. The application proposed the Salina A-2 Evaporite at a depth of 2,634 feet to 2,662 feet as the upper confining zone. West Bay's lithologic description of this 28 foot thick barrier to the potential upward migration of effluent is: "Anhydrite, dense, hard, white, excellent barrier to flow."

In January 2012 Region 5 issued the draft West Bay permit, UIC Permit No. MI-075-2D-0009. The public comment period ran for 30 days from January 30, 2012. Petitioner did not comment during this period. Region 5 received numerous requests for a public hearing and created a second public comment period running from April 17, 2012 through June 1, 2012. This period included a public meeting at Columbia Central High School on May 23, 2012. Petitioner provided timely oral comments to Region 5 at the public meeting and expanded on those comments with timely written comments to Region 5 (Anna Miller) via e-mail dated May 29, 2012. On December 6, 2012, the EPA issued a Response to Comments that superficially addressed Petitioner's comments regarding Draft Permit No. MI-075-2D-0009. Petitioner received this mailing in a timely fashion.

The EPA issued the final permit on December 10, 2012, with an effective date of January 9, 2013. Petitioner then filed a timely Petition for Review on January 8, 2013. On January 14, 2013, Erica Durr, Clerk of the Board sent a letter to Robert Kaplan requiring a Response no later than February 26, 2013. The EAB abused its discretion by docketing a late and deficient Petition 13-02 by Sandra Yerman on February 13, 2013 without notifying this Petitioner. On February 25, 2013 Kris P. Vezner filed a Response to 13-01 for Region 5. On April 8, 2013 Region 5 Director Tinka Hyde sent 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. Section 124.19(j) of the revised rules which went into effect on March 26, 2013. On April 16, 2013 the EAB issued an order Dismissing Petitions 13-01 and 13-02 For Review As Moot. On April 19, 2013 Petitioner filed a Motion To Deny. Petitioner sent a Motion To Reconsider by Express Mail (EI 877353964 US) to U.S. EPA, Clerk of the Board, EAB, 1341 Sixth St. NW, Sixth Floor, Washington DC, 20005 (202-233-0122) on Earth Day, Monday April 22, 2013 guaranteed delivery by noon on April 23, 2013 which for some reason has not yet been placed on the docket by the Clerk of the Board. Petitioner now files this Motion To Stay by fax on April 24, 2013.

Petitioner Requests that the EAB stay their order of April 16, 2013 based on the arguments in Petitioner's Motion for Reconsideration of EAB Order dated 4-16-13 Dismissing Petition UIC Appeal No. 13-01 for Review as Moot sent by Express Mail (EI 877353964 US) to U.S. EPA, Clerk of the Board, EAB, 1341 Sixth St. NW, Sixth Floor, Washington DC, 20005 (202-233-0122) on Earth Day, Monday April 22, 2013.

WHEREFORE for the reasons stated in Petitioner's Motion for Reconsideration of EAB Order dated 4-16-13 Dismissing Petition UIC Appeal No. 13-01 for Review as Moot, the Petitioner respectfully requests that the EAB grant his Motion To Stay.

Respectfully submitted,



Peter Bormuth

142 West Pearl St.

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(517) 787-8097

Dated: April 24, 2013

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#### CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2013, I mailed a copy of my Motion To Stay 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 24, 2013

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