

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

SYD H. LEVINE,	)	
	)	
Petitioner,	)	
	)	
v.	)	<b>Docket No. 01 - 3072</b>
	)	
UNITED STATES ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**MOTION / PETITION FOR  
RECONSIDERATION, REHEARING, AND / OR  
EN BANC HEARING**

Petitioner appealed a decision of the United States Environmental Protection Agency (EPA) Environmental Appeals Board (EAB). The United States moved for dismissal for lack of standing and the panel assigned to this case granted said motion.

I believe the court has overlooked an important consideration. I had standing in the original hearing before the EAB. If administrative branch agencies can evade judicial review of decisions made in their administrative law courts in cases like this, constitutional checks and balances are unjustly undermined. Such administrative law court decisions are frequently cited by agencies when interpreting regulations and enabling legislation, making judicial review of such decisions all the more important.

Further, the close proximity of my home and water well and the risk thereto were not relevant to the EAB proceedings. I had standing to appeal to the EAB as a commentor on the underground injection control (UIC) permit as a matter of law. The EAB had no interest in the

location of my domicile, hence it is of course not in the record. The threat to my water well was admittedly included in the appeal to this court to enhance standing arguments, but that does not change the fact that it was my principal motivation in spending countless hours on the original EAB appeal.

Finally, environmental injury from regulatory action is always somewhat speculative. Members of environmental groups who used recreational waters have been granted standing to appeal regulatory decisions that could not yet possibly have resulted in harm. If review is denied in all cases short of catastrophic damage, there could be no review of EPA decisions in a timely manner.

I would respectfully pray for whatever relief is appropriate, and urge the court to consider the consequences of allowing administrative agencies to so easily escape judicial review of administrative law court decisions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was mailed on April 3, 2003, by first class mail, postage prepaid, to Respondent at the following address:

Laurel A. Bedig, Trial Attorney  
U.S. Department of Justice  
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Environment and Natural Resources Division  
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Syd H. Levine