

Before the Illinois Pollution Control Board

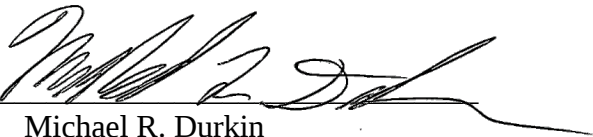
Catherine Johnson, DDS and	)	
Eric Johnson, DDS	)	
	)	
Complainants,	)	
	)	
v.	)	PCB 2026-061
	)	
Village of Willowbrook Illinois, Parks and	)	
Recreation Department	)	
	)	
Respondents.	)	

NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST.

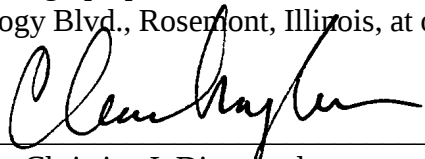
PLEASE TAKE NOTICE that on **August 31, 2026**, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, the foregoing **RESPONDENT'S RESPONSE IN OPPOSITION TO COMPLAINANT'S MOTION FOR LEAVE TO SUPPLEMENT THEIR RESPONSE TO MOTION TO DISMISS**, a copy of which is attached hereto and herewith served upon you.

VILLAGE OF WILLOWBROOK, PARKS
AND RECREATION DEPARTMENT

By: 
Michael R. Durkin
One of the attorneys for Respondent

CERTIFICATE OF SERVICE

I, Christina I. Dimopoulos, a non-attorney, certify that I served this notice by mailing a copy of this **NOTICE OF FILING** and **RESPONDENT'S RESPONSE IN OPPOSITION TO COMPLAINANT'S MOTION FOR LEAVE TO SUPPLEMENT THEIR RESPONSE TO MOTION TO DISMISS** to the persons on the attached Service List, via electronic mail and U.S. Regular Mail, by placing same in an envelope, postage prepaid, addressed to the above person, and placing same in the U.S. Mail at 9501 Technology Blvd., Rosemont, Illinois, at or before 4:45 PM on this **31st day of August, 2026**.

By: 
Christina I. Dimopoulos

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Complainants

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v.	)	PCB 2026-061
	)	
Village of Willowbrook Illinois, Parks and	)	
Recreation Department	)	
	)	
Respondents.	)	

**RESPONDENT'S RESPONSE IN OPPOSITION TO COMPLAINANTS' MOTION FOR
LEAVE TO SUPPLEMENT THEIR RESPONSE TO RESPONDENT'S MOTION TO
DISMISS**

Respondent, Village of Willowbrook, Parks and Recreation Department ("Respondent"), by and through its attorneys, Storino, Ramello & Durkin, respectfully moves this Honorable Illinois Pollution Control Board ("PCB"), to deny Complainants' Motion for Leave to Supplement their Response to Respondent's Motion Dismiss.

I. INTRODUCTION

On August 13, 2026, Complainants filed Complainants' Response to Respondent's Motion to Dismiss and Motion to Correct Misnomer. On August 17, 2026, Complainants filed Complainants' Motion for Leave to Supplement their Response to Respondent's Motion Dismiss, requesting the PCB for leave to supplement their response to Respondent's Motion to Dismiss with an exhibit, which in most part purports to be a sound/noise study for Borse Park, dated July 15, 2026, from GZA Geoenvironmental, Inc. to Christopher B. Burke Engineering, Ltd.¹ (hereinafter "Complainants' Exhibit") Neither the exhibit or motion was supported by oath, affidavit, or

¹ The exhibit also purportedly attaches a Village of Willowbrook July 27, 2026, staff memorandum to the Village Committee of the Whole, as well as an agenda for the Village of Willowbrook Committee of the Whole Meeting, dated July 27, 2026.

certification. Complainants have not moved the PCB for formal leave to file a third amended complaint, but seek leave in their motion for the PCB to accept this exhibit as factual matters into the record. Respondent objects to Complainants' Motion for Leave to Supplement their Response to Respondent's Motion Dismiss Complainants' Second Amended Complaint and moves the PCB to deny Complainants' Motion for Leave to Supplement their Response to Respondent's Motion Dismiss Complainants' Second Amended Complaint, strike said exhibit and decide to Respondent's Motion Dismiss Complainants' Second Amended Complaint on the briefs that are properly before it.

II. Legal Standard

The PCB may entertain motions that are permissible under the Environmental Protection Act, the Board's procedural rules, other applicable law, or the Code of Civil Procedure (§101.500). The Code of Civil Procedure and Illinois Supreme Court Rules do not apply to Board's proceedings unless the Board's procedural rules provide otherwise, but the Board may look to them for guidance when the Board's procedural rules are silent (§101.500). All motions and responses must state the grounds upon which the motion is made and must concisely state the position or relief sought. Facts asserted that are not of record in the proceeding must be supported by oath, affidavit, or certification consistent with Section 1-109 of the Code of Civil Procedure (§101.504).

III. Argument

A. The Proposed Exhibit Exceeds the Limited Role of Materials Allowed to Be Submitted in Response to A Motion to Dismiss

Complainants' proposed motion to supplement should be denied because Complainants' Exhibit is not being offered to deny Respondent's arguments, affirmative matter, or establishing facts obviating the asserted defect. Instead Complainants are seeking to add to their second amended complaint, through a response brief exhibit. That is not a proper supplement to a response

brief. Illinois authority supports striking materials submitted outside the complaint in this posture. *Kirchner v. Greene*, 294 Ill. App. 3d, 672 (Ill. App. 1998). If Complainants believe that their second amended complaint is deficient without the new exhibit, Complainants must seek proper leave to amend the complaint like they have done already twice before – not attempt to amend by exhibit and argument. These principles keep the pleadings and motion arguments in their proper lanes. Complainants may respond to Respondent's arguments by argument, or proper affirmative matter in accordance with §101.504, but Complainants may not use a supplementary exhibit, to create a new complaint.

B. The Proposed Exhibit Is an Improper Attempt to Supplement the Second Amended Complaint Without Satisfying Proper Amendment Procedures

Complainants' proposed motion to supplement should be denied because it seeks the benefit of an amended pleading without asking the PCB for leave to amend their complaint, and without tendering an amended complaint. Before final judgment, courts generally permit amendments to pleadings on just and reasonable terms to enable a party to sustain the claim brought in the suit. *Sanaa Hachem v. Chi. Title Land Trust Co. V. Chi. Title Ins. Co.*, 2015 IL App. (1st) 143188 (2015). When considering leave to amend before final judgment, the decision-maker considers whether the proposed amendment would clear the pleading defect, whether other parties would sustain prejudice or surprise, whether the proposed amendment is timely, and whether previous opportunities to amend could be identified. *Id.* Here complainants' motion has satisfied none of these requirements. They do not attach a proposed amended complaint; identify the allegations to be inserted into the pleadings; explain how the new allegations would cure the defects Respondent has argued its Motion to Dismiss; and does not allow the Respondent or the PCB to evaluate the proposed changes under the proper amendment factors. Instead Complainants seek to add new factual allegations after Respondent filed a dispositive motion. Allowing this

approach would treat Complainants' motion as a pleading amendment while bypassing procedural safeguard that govern amendments.

C. Granting Complainants' Motion for Leave Would Prejudice Respondent and Distort its Pending Motion to Dismiss The Second Amended Complaint

Granting Complainants' Motion for Leave to Supplement Their Response to Motion to Dismiss would prejudice Respondent because Respondent's Motion to Dismiss the Second Amended Complaint was directed to the pleading as filed originally. Complainants now seek to alter the factual landscape without filing an amended complaint. Complainants challenged the Second Amended Complaint filed. Complainants should not be permitted to avoid that challenge by placing new factual allegations in a supplemental response exhibit to a motion, rather than an amended complaint.

CONCLUSION

WHEREFORE, Respondent, Village of Willowbrook Parks and Recreation Department respectfully request, that this Honorable Board deny Complainants Motion for Leave to Supplement their Response to Respondent's Motion Dismiss Complainants' Second Amended Complaint, strike said exhibit and decide Respondent's Motion Dismiss Complainants' Second Amended Complaint on the briefs that are properly before it.

Respectfully submitted,

STORINO, RAMELLO & DURKIN

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