

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

BFI WASTE SYSTEMS	)	
OF NORTH AMERICA, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB No. 2026-030
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**MOTION TO SUPPLEMENT RECORD ON APPEAL**

NOW COMES Petitioner, BFI WASTE SYSTEMS OF NORTH AMERICA, LLC, by and through its attorney, Scott B. Sievers of Brown, Hay + Stephens, LLP, and, pursuant to 35 Ill. Adm. Code 101.500, moves this honorable Board to order Respondent, Illinois Environmental Protection Agency, to supplement its Record on Appeal. In support, Petitioner states the following:

1. On January 14, 2026, Respondent Illinois Environmental Protection Agency (“Illinois EPA”) filed its Record on Appeal in this matter along with an Index of the Record and Certification of the Record on Appeal.

2. Section 105.116(a) of the regulatory provisions applicable to this matter provides that Illinois EPA “must file with the Board the entire record of the Agency’s ... decision[.]” 35 Ill. Adm. Code 101.202, 105.116(a); *see also* 35 Ill. Adm. Code 105.212(a) (“The Agency must file its entire Agency record of decision with the Clerk[.]”) This Board has held that “[t]he record must include all documents that the Agency either relied on or ‘reasonably should have relied on’ and it is the Agency’s responsibility to file the complete

record.” *KCBX Terminals Company v. Illinois EPA*, 2014 WL 1598132, at \*11 (PCB No. 14-110) (Order of April 17, 2014).

3. Section 105.212(b) of those provisions states that Illinois EPA’s record must include:

- 1) Any permit application or other request that resulted in the Agency's final decision;
- 2) Correspondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the permit application;
- 3) The permit denial letter that conforms to the requirements of Section 39(a) of the Act or the issued permit or other Agency final decision;
- 4) The Agency public hearing record of any Agency public hearing that may have been held before the Agency, including any transcripts and exhibits; and
- 5) Any other information the Agency relied upon in making its final decision.

35 Ill. Adm. Code 105.212(b).

4. Upon information and belief, the Record on Appeal does not constitute the entire record of its decision, as documents specifically referenced in the existing Record on Appeal have not been included in the Record on Appeal:

A. Illinois EPA’s Response to Comments references “USEPA’s Guideline for Evaluating Post-Closure Care Period, dated December 15, 2016,” (*see* R 000006), but that document is not included in the Record on Appeal.

B. Illinois EPA’s Response to Comments references “ASTSWMO Position Paper, dated July 20, 2022 “Post-Closure Care Beyond 30 Years at RCRA Subtitle C Facilities,” (*see* R 000006), but that document is not included in the Record on Appeal.

5. The Record on Appeal also is missing several attachments. While the Index of the Record shows Volume II of the Record on Appeal as including a “Republic Services Letter to IEPA enclosing Addendum 2 to RCRA Post-Closure Permit Renewal” dated June 20, 2025, and spanning R 000347 to R 000513, that document actually ends at R 000499 and is missing the following attachments:

A. Attachment 4: Revised Gas/Leachate System Drawing (dated June 6, 2025).  
(*See* R 000477).

B. Attachment 6: Drawings B-3A and B-4 (dated June 6, 2025). (*See* R 000493)

C. Attachment 7: Revised Table C-2 - Groundwater Monitoring Parameter List  
(dated June 6, 2025). (*See* R 000494).

D. Attachment 8: Table of Groundwater Well Survey and Depth Information  
(dated June 6, 2025). (*See* R 000495).

E. Attachment 9: Revised Sample Contractor Handout (dated June 6, 2025).  
(*See* R 000496).

F. Attachment 10: Revised Drawing A-14 (dated June 6, 2025). (*See* R  
000497).

G. Attachment 11: Revised Post-Closure Cost Estimate (dated June 6, 2025).  
(*See* R 000498).

H. Attachment 12: Post-Closure Cost Documentation - Groundwater Sampling  
and Analysis (dated June 6, 2025). (*See* R 000499).

6. To ensure compliance with Illinois EPA’s obligation to file its entire Agency record of decision, including any information it relied upon in making its final

decision, the Board should order Illinois EPA to supplement the Record on Appeal to include the above-identified documents.

WHEREFORE, Petitioner, BFI WASTE SYSTEMS OF NORTH AMERICA, LLC, moves this honorable Board to order Illinois EPA to supplement the Record on Appeal as set forth above and grant Petitioner such other and further relief as the Board may deem appropriate.

DATED: June 4, 2026

Respectfully submitted,

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BFI WASTE SYSTEMS  
OF NORTH AMERICA, LLC,

Petitioner.

BY: /s/Scott B. Sievers  
Scott B. Sievers  
Attorney for Petitioner

***BFI Waste Systems of North America, LLC v. Illinois EPA***  
**Pollution Control Board No. 2026-030**

**CERTIFICATE OF SERVICE**

Scott B. Sievers of the law firm of Brown, Hay + Stephens, LLP herein certifies that on June 4, 2026, from Springfield, Illinois, he electronically submitted for filing the foregoing **MOTION TO SUPPLEMENT RECORD ON APPEAL** with the Pollution Control Board by using the Clerk's Office On-Line (COOL) eFile system. Scott B. Sievers further certifies that, on June 4, 2026, he served the other parties in this case with a copy of the foregoing document by transmitting it by e-mail to the parties' representatives, who are identified below, at their designated e-mail addresses of record:

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**VERIFICATION BY CERTIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters herein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

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BY: /s/Scott B. Sievers  
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