BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Kenda C. Hess, Theresa Adams, Lori Shields, John and Joyce Borchers, Lois Rooney, Charles Archibald, Yolanda Taylor-Hudson, and Mary Mann Reifsteck,	)	
Petitioners,	)	**PCB 2027-002 (Third-Party Pollution Control Facility Siting Appeal)**
v.	)	
Area Disposal Service, Inc., And Village of Rantoul,	)	
Respondents.	)	

PETITIONERS' RESPONSE IN OPPOSITION TO AREA DISPOSAL SERVICE, INC.'S MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF ITS MOTION TO DISMISS PETITION FOR HEARING TO CONTEST THE VILLAGE OF RANTOUL'S APPROVAL OF AREA DISPOSAL SERVICE, INC.'S WASTE TRANSFER STATION

Petitioners Kenda C. Hess, Theresa Adams, Lori Shields, John and Joyce Borchers, Lois Rooney, Charles Archibald, Yolanda Taylor-Hudson, and Mary Mann Reifsteck (collectively, "Petitioners"), by and through this Response, oppose Respondent Area Disposal Service, Inc.'s ("Area Disposal") Motion For Leave to File Reply in Support of Motion to Dismiss Petition For Hearing to Contest the Village of Rantoul's Approval of Area Disposal Service, Inc.'s Waste Transfer Station. For the reasons that follow, Area Disposal's Motion should be denied.

Procedural Background

1. On December 22, 2025, Area Disposal submitted to Respondent Village of Rantoul (the "Village" or "Rantoul") an application for siting approval for a recycling and waste transfer station to be located at 896 West Champaign Avenue in Rantoul (hereinafter, the "Rantoul Transfer Station" or "RTS").

2. On June 16, 2026, the Village held a Special Meeting where three Village Trustees voted in opposition of approving the RTS with conditions. (Petition at Ex. 3; C1940-1942). Three Village Trustees and the Village Mayor voted to approve the RTS with conditions. *Id.* The result of the vote was that the Village approved with conditions Area Disposal's application for the RTS. *Id.*

3. On July 21, 2026, Petitioners, collectively and individually, timely filed a Petition for a Hearing to Contest the Village of Rantoul's Approval of Area Disposal's proposed RTS with the Board. The Petition alleges that the Village of Rantoul's decision to approve the RTS was against the manifest weight of the evidence and the Village's siting process was fundamentally unfair. (*See generally*, Petition).

4. On August 19, 2026, Area Disposal filed a Motion to Dismiss Petitioners' Petition ("Motion to Dismiss"), wherein it requested that the Board dismiss the Petition in its entirety.

5. On September 1, 2026, Petitioners filed a Response in Opposition to Area Disposal's Motion to Dismiss (the "Response"), wherein Petitioners requested that the Board deny Area Disposal's Motion to Dismiss in its entirety or, alternatively, grant Petitioners leave to file an amended Petition.

6. On September 15, 2026, pursuant to 35 Ill. Admin. Code § 101.500(e), Area Disposal filed a Motion for Leave to File Reply in support of its Motion to Dismiss ("Motion for Leave to File Reply") and attached its proposed Reply brief. The Reply brief "concerns only Petitioners' fundamental fairness claim." (Mot. for Leave to File Reply at ¶4).

ARGUMENT & AUTHORITIES

Under the Board's Procedural Rules, a movant "will not have the right to reply, except as the Board or the hearing officer permits to prevent material prejudice. A motion for permission to file a reply must be filed with the Board within 14 days after service of the response." 35 Ill. Admin. Code § 101.500(e). Area Disposal argues that, without leave to file a reply in support of its Motion to Dismiss, it will suffer material prejudice because Petitioners' Response allegedly

contains "misstatements of fact and law" with respect to their fundamental unfairness claim. (Mot. for Leave to File Reply at ¶6; *see also* ¶4). Petitioners dispute Area Disposal's claims that their Response contains misstatements of law or fact or otherwise "assert[ed] false parallels, and false distinctions, between the facts of this case and the precedent relied on by Petitioners and Area Disposal." (*Id.* at 8).

A closer look at Area Disposal's Motion for Leave to Reply and proposed Reply brief reveals that there is no threat of material prejudice to Area Disposal because Petitioners' Response does not rely on or include misstatements of law or fact. Rather, through its proposed Reply, Area Disposal seeks to bolster its arguments and authorities from its Motion to Dismiss. Such elaboration is not required to prevent material prejudice. *See, e.g., People of the State of Illinois, Complainant v. Atkinson Landfill Co., An Illinois Corporation, Respondent*, PCB 13-28 (Jan. 9, 2014), 2014 WL 186652 at *4 (denying request for leave to file a surrebuttal because the Board was "not persuaded that ALC will be prejudiced without an opportunity to elaborate on the arguments on the merits that it makes in its objection"). As discussed in greater detail below, Area Disposal's Motion for Leave to Reply should be denied because Area Disposal has not shown that it will suffer material prejudice if it is not granted permission to file its proposed Reply. And, even if the Board grants permission, the Reply does not change the outcome that the Board should deny Area Disposal's Motion to Dismiss.

I. Petitioners' Response Does Not Rely on "Misrepresentations of the Allegations in the Petition" or "Misstate[] the Law[,]" and Area Disposal's Proposed Reply Does Not Change the Outcome That the Board Should Deny Its Motion to Dismiss.

a. Petitioners' Response does not rely on "Misrepresentations of the Allegations in the Petition."

Area Disposal claims it will suffer material prejudice if not given leave to address a part of a sentence in Petitioners' Response's introduction, which it claims suggests that the Petition quotes or points to specific statements from Rantoul's June 16, 2026 Special Meeting when the Petition does not. (*See* Mot. for Leave to File Reply at ¶¶6-7; Motion to Dismiss at 11). But, the Response clearly explains that the Petition:

> "identifies specific transcript pages—'R-1342-1343' and 'R-1443-1444'—describing prefiling review of the RTS Application by Village staff and an outside consultant, **and it identifies a specific, named, public meeting, the June 16, 2026 Special Meeting, at which Petitioners allege that Village Trustees, officials, and their representatives made statements bearing on prejudgment and bias**, **supported by a citation to the video recording of that meeting**." (Response at 16 (emphasis added)).

The Response further refers the Board directly to the pages of the Petition discussing Petitioners' allegations concerning the specifically identified June 16, 2026 Special Meeting. (*Id.* (citing Petition at 42-43)). The Response relies on these detailed allegations—not a list of the statements from that June 16, 2026 Special Meeting which, as discussed further in Section I(c) below, Petitioners were not required to allege in their Petition in order to state their claim.

Thus, what Area Disposal really seeks with its proposed Reply is an opportunity to elaborate on its incorrect argument concerning the sufficiency of Petitioners' fundamental unfairness allegations—an argument that Area Disposal already made in its Motion to Dismiss. (*See, e.g.*, Motion to Dismiss at 11 (making the same argument that the Petition's lack of specific statements from the Special Meeting renders the pleadings insufficient)). Such elaboration is not necessary to prevent material prejudice. *See, e.g., People of the State of Illinois, Complainant v. Atkinson Landfill Co., An Illinois Corporation, Respondent*, PCB 13-28 (Jan. 9, 2014), 2014 WL 186652 at *4.

b. Petitioners' Response does not "Misstate[] the Law."

Area Disposal also claims material prejudice will result if it cannot file a reply to address alleged misstatements of law in Petitioners' Response. (*See* Mot. For Leave to Reply at ¶¶ 6, 8). Area Disposal's proposed Reply alleges misstatements of law related to two authorities, which Petitioners address in turn.

First, in their Response, Petitioners argue that their allegations of fundamental unfairness provide "materially more than the 'bare, unsupported allegations' rejected in *Residents Against a*

Polluted Environment v. Illinois Pollution Control Board, 293 Ill. App. 3d 219, 225 (3d Dist. 1997) where the petition failed to name even the parties involved in their bias claim." (Response at 16). There is no misstatement of law in this argument, as Area Disposal claims. (*See* Mot. For Leave to File Reply, Attachment at 2-3.) The opinion expressly states: "the petition for review and the motion to clarify contain nothing but bare allegations. No parties are specifically named and no specific contacts are identified." *Residents Against a Polluted Env't v. Illinois Pollution Control Bd.*, 293 Ill. App. 3d 219, 225 (1997). Thus, what Area Disposal seeks with its Reply is to bolster arguments it made when citing to *Residents Against a Polluted Env't* in its Motion and respond to Petitioners' arguments about it—not to correct a misstatement of law that would pose material prejudice. (*See* Mot. to Dismiss at 10).[1]

Second, Petitioners cite the Board's opinion in *Environmental Recycling and Disposal Services, Inc., v. Will County, Illinois, et al.*, PCB 16-76 (March 3, 2026), 2016 WL 4400835 to support their argument that their fundamental fairness allegations are sufficiently detailed and should not be dismissed. (Response at 16-17). Nowhere does Area Disposal claim that what Petitioners said about the opinion constitutes a misstate of law posing a risk of material prejudice to them. Area Disposal's argument in its proposed Reply is plainly an attempt to distinguish the opinion from the facts at issue here. (*See* Mot. For Leave to File Reply, Attachment at 2-3). The Board may, of course, directly reference its opinion in *Environmental Recycling and Disposal Services* to determine its appropriateness as a guide for its decision-making and proximity to the facts at issue here. But Area Disposal's desire to try to distinguish the opinion does not render Petitioners' argument about it a misstatement of law or fact. Arguments that authorities are

[1]Moreover, contrary to Area Disposal's argument in its proposed Reply, Petitioners did identify, and/or provided enough information to reasonably infer from their Petition, which "Trustee(s) they are alleging prejudged the siting application." (*See* Mot. For Leave to File Reply, Attachment at 2; *see also e.g.*, Petition at 6 (stating that three Trustees and the Mayor voted to approve the RTS); Petition at Ex. 3 (identifying those Trustees and the Mayor by name); Petition at 42-43 (alleging, *inter alia*, that the "governing body [i.e., those that voted to approve the RTS] prejudged that criteria were satisfied prior to the completion of the siting proceedings").

analogous to or distinguishable from the present circumstances are the stuff of routine motion practice—they do not threaten material prejudice, especially when they do not contain any misstatements of law or fact.

c. Section A of Area Disposal's proposed Reply does not change the outcome that the Board should deny its Motion to Dismiss because Petitioners' fundamental fairness claim was sufficiently pled.

In Section A of its proposed Reply, Area Disposal makes strawman arguments that miss the point that Petitioners have met the applicable pleading requirements with respect to their fundamental unfairness claim. (*See* Mot. For Leave to File Reply, Attachment at 1-3). As the Board knows, unless the Board determines that a petition is "duplicative or frivolous," the Board will hear the petition. 415 ILCS 5/40.1(b); 35 Ill. Adm. Code 107.200(b). A petition is "frivolous" if it makes "a request for relief that the Board does not have the authority to grant," or "fails to state a cause of action upon which the Board can grant relief." 35 Ill. Adm. Code 101.202. The Board has recognized that "pleading requirements for administrative review are less exacting than for other causes of action." S*ierra Club and Jim Bensman v. City of Wood River and Norton Environmental,* PCB 98-43 (November 6, 1997), 1997 WL 728170 at *2 (citation omitted). Illinois is a fact-pleading state. *Amer. Disposal Servs. of Illinois, Inc. v. County Bd. of McClean County, Illinois*, PCB 11-60 (Feb. 16, 2012), 2012 WL 586817 at *32. But "[f]act-pleading does not require a complainant to set out its evidence: '[t]o the contrary, only the ultimate facts to be proved should be alleged and not the evidentiary facts tending to prove such ultimate facts.'" *Id.* (citation omitted). A petitioner's allegations are "sufficiently specific if they reasonably inform the defendants by factually setting forth the elements necessary to state a cause of action." *See Id.* (quotations and citation omitted).

Petitioners' fundamental unfairness allegations meet this standard. Petitioners did not merely allege the bare legal conclusion that the local siting hearing was fundamentally unfair. (*See*

Petition at 42-43). They also allege and describe at least two different factual circumstances rendering the hearing fundamentally unfair: (1) that not all timely submitted public comments were included in the record or considered by the Village of Rantoul as required by the Village's procedural rules (Petition at 43);[2] and (2) that Petitioners are concerned that "certain Rantoul elected officials and staff prejudged the facts and the law[,]" that "[] Area Disposal and/or its experts worked with Rantoul's governing body and staff so closely that they prejudged that criteria were satisfied prior to the completion of the siting proceedings[,]" and therefore the Village of Rantoul's Trustees and Mayor were not impartial when they voted to approve the Rantoul Transfer Station (Petition at 41-43). These are the ultimate facts that, taken as true and if proven, entitle Petitioners to relief because they show why the local siting hearing was fundamentally unfair and further reasonably inform Area Disposal of the bases for their claim. Thus, these ultimate facts and all reasonable inferences drawn from them sufficiently state Petitioners' fundamental fairness claim.

But Petitioners' allegations go above and beyond the ultimate facts. Even though Petitioners are not required to plead the evidentiary facts tending to prove the ultimate facts they pled, Petitioners did include examples of such evidentiary facts in their Petition. With respect to their claim that certain timely submitted public comments were not considered by the Village, Petitioners additionally pled "Petitioner Mary Mann Reifsteck believes that she timely submitted a written public comment on or about May 15, 2026, but her comment does not appear in the record…." (Petition at 43).

[2] In its Motion to Dismiss and proposed Reply, Area Disposal did not raise arguments concerning the sufficiency of Petitioners' claim that the local siting was fundamentally unfair because it appears that not all timely submitted public comments made it into the record considered by the Village when voting on the application for the Rantoul Transfer Station. For that reason, too, Area Disposal's Motion to Dismiss Petitioners' fundamental fairness claim should be denied.

With respect to their prejudgment claim, Petitioners pointed to two areas of supporting evidence and they did so for the express purpose of showing that their allegations are not merely based on their fears, concerns, or "unsupported suspicions (or hopes) of impropriety[,]" as Area Disposal claims in its proposed Reply. (*See* Petition at 42; Mot. For Leave to File Reply, Attachment at 3). First, in support of their allegation that Area Disposal and the Village of Rantoul worked so closely together that the Village's governing body prejudged that the siting criteria were satisfied, they pled and cited to examples of supporting evidence in the record: "*E.g.*, R-1342-1343 (reflecting that Rantoul had started to consider and invest in the application 'before [Area Disposal] filed [it.]'); R-1443-1444 ('We've [Area Disposal and/or its expert Mr. Werthmann] worked closely with the village and your consultant on the design of this and the routes to the facility….')[]". (Petition at 42). Second, they pled that "[s]tatements made by Rantoul Trustees, officials, and their representatives at the June 16, 2026 Special Meeting raise similar concerns that the law and facts were prejudged to require approval with no room to consider denial of the application or the imposition of additional conditions on the RTS" and provided a link to the video of the Special Meeting. (Petition at 42-43, fn 27).

Thus, even if the Board grants Area Disposal leave to file its proposed Reply, the Reply does nothing to change that Petitioners' allegations are more than sufficient to state their fundamental unfairness claim and Area Disposal's Motion to Dismiss should be denied.

II. Section B of Area Disposal's Proposed Reply Expounds Upon an Argument Area Disposal Already Made and Does Not Change the Outcome that the Board Should Deny its Motion to Dismiss Because The Issue of Whether Petitioners Forfeited Their Fundamental Fairness Claim Cannot Be Resolved at the Pleading Stage.

Section B of Area Disposal's proposed reply brief continues the same argument Area Disposal made in its opening Motion to Dismiss, i.e., that, according to Area Disposal, Petitioners forfeited their fundamental fairness claim because they failed to raise the issue of prejudgment and bias prior to the Village of Rantoul's vote. In Section B, Area Disposal does not attempt to correct

any alleged misstatements of law or fact from Petitioners' Response. Rather, Area Disposal wants a second bite of the apple, i.e., of the argument it already made—which is not necessary to prevent material prejudice. Thus, Area Disposal's Motion For Leave to File Reply should be denied.

In any event, nothing about Area Disposal's continued argument changes the outcome or requires dismissal of Petitioners' fundamental unfairness claim.[3] Just as in its Motion, in Section B of its proposed reply, Area Disposal sweepingly argues that Petitioners forfeited their fundamental unfairness claim because their claim exclusively rests on evidence of prejudgment that "came to light" before the Village of Rantoul's vote, but Petitioners failed to raise the issue of prejudgment in advance of the vote. (*See* Mot. to Dismiss at 12; Mot. For Leave to File Reply, Attachment at 3). This argument fails because it relies on interpreting the Petition and drawing numerous inferences from it in favor Area Disposal—when the opposite is what is required at this stage. *See, e.g., Amer. Disposal Servs. of Illinois, Inc.*, PCB 11-60 (Feb. 16, 2012), 2012 WL 586817 at *33.

By way of just one example, Petitioners allege in their Petition that "[o]n June 16, 2026, the Rantoul Board of Trustees and Mayor held a Special Meeting to discuss Area Disposal's application for local siting approval of the RTS and vote on whether to approve it." (Petition at 6). One of the evidentiary bases supporting their prejudgment claim is "[s]tatements made by Rantoul Trustees, officials, and their representatives at the June 16, 2026 Special Meeting…." which indicated prejudgment. (Petition at 43). Area Disposal argues that Petitioners forfeited their prejudgment claim because Petitioners did not raise the issue that such statements showed

[3]Area Disposal does not address in its Motion to Dismiss or proposed Reply Petitioners' separate fundamental unfairness allegation that "it appears that some timely submitted public comments did not make it into the record and therefore were not considered by Rantoul, as required and rendering the local siting process unfair. For example, Petitioner Mary Mann Reifsteck believes that she timely submitted a written public comment on or about May 15, 2026, but her comment does not appear in the record…." (Petition at 43). Taken as true, as they must at this stage, these allegations show that the local siting hearing was fundamentally unfair. Therefore, Petitioners' fundamental fairness claim should not be dismissed.

prejudgment or bias prior to the Board's vote, which occurred at the end of that same June 16, 2026 Special Meeting. (*See* Petition at 6; Petion at 43, fn 27, link to the video of the Special Meeting at 1:00:54-1:04:12; Mot. For Leave to File Reply, Attachment at 3-4).

To make that argument, Area Disposal impermissibly calls on the Board to infer, in Area Disposal's favor, that (1) all Petitioners were, or should have been, present at the June 16, 2026 Special Meeting, heard the statements live, and therefore knew or should have known of them prior to the vote at the end of that very same Special Meeting; (2) procedurally, all Petitioners had an opportunity to raise claims of prejudgment and bias after what they heard moments before at the Special Meeting; and (3) that no Petitioners raised issues of prejudgment at the Special Meeting. These inferences cannot and should not be drawn in favor Area Disposal at this stage and further illustrate why forfeiture is a fact-based issue that cannot be resolved on the pleadings alone.

Indeed, as Area Disposal knows because its attorney was present at the June 16, 2026 Special Meeting,[4] and because Petitioners included a link to the video of the June 16, 2026 Special Meeting in their Petition as it is not a part of the record, members of public (including Petitioners) were only given an opportunity to raise issues through public comment if they signed up on the Village of Rantoul's participation form and submitted that form to the Village Clerk **prior to** the Special Meeting at which the prejudgment statements were made. (Petition at 43, fn 27, link to the video of the Special Meeting at 2:12-2:40). Petitioners certainly could not have known, prior to the Special Meeting, of statements that would be made at the meeting. And, even if Petitioners were present at the Special Meeting, as Area Disposal asks the Board to assume, and had made attempts to make public comment without having submitted a participation form, their only opportunity to do so was at the beginning of the meeting—**before** Village of Rantoul Trustees, officials, and their representatives made any statements at all, including the statements of

[4](Petition at 43, fn 27, link to the video of the Special Meeting at 13:49-17:10 (reflecting Area Disposal's attorney giving public comment at the June 16, 2026 Special Hearing).

prejudgment at issue here. (*See generally Id.*) Thus, Petitioners could not have raised the prejudgment issues presented by the Trustees' and other officials' statements prior to the vote.

This example typifies how, contrary to Area Disposal's argument in its proposed Reply's Section B, the issue of whether Petitioners forfeited the prejudgment portion of their fundamental unfairness claim, raises numerous factual questions that cannot and should not be resolved on the face of Petitioners' Petition. Therefore, even if the Board grants Area Disposal leave to file its proposed Reply, the outcome that the Board should deny Area Disposal's Motion to Dismiss remains the same.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Illinois Pollution Control Board deny Respondent Area Disposal Service, Inc.'s Motion For Leave to File Reply in Support of Motion to Dismiss Petition For Hearing to Contest the Village of Rantoul's Approval of Area Disposal Service, Inc.'s Waste Transfer Station.

Dated: September 28, 2026

Respectfully submitted,

/s/ Margaret E. Galka

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NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on September 28, 2026, I caused to electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the foregoing PETITIONERS' RESPONSE IN OPPOSITION TO AREA DISPOSAL SERVICE, INC.'S MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF ITS MOTION TO DISMISS PETITION FOR HEARING TO CONTEST THE VILLAGE OF RANTOUL'S APPROVAL OF AREA DISPOSAL SERVICE, INC.'S WASTE TRANSFER STATION, a copy of which is hereby served upon you.

/s/ Margaret E. Galka

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CERTIFICATE OF SERVICE

I hereby certify that, on September 28, 2026, I served a copy of the foregoing NOTICE OF FILING and the foregoing PETITIONERS' RESPONSE IN OPPOSITION TO AREA DISPOSAL SERVICE, INC.'S MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF ITS MOTION TO DISMISS PETITION FOR HEARING TO CONTEST THE VILLAGE OF RANTOUL'S APPROVAL OF AREA DISPOSAL SERVICE, INC.'S WASTE TRANSFER STATION, on the parties on the attached service list, by sending a copy to the email addresses designated on the service list on or before 4:30pm on September 28, 2026.

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