BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Kenda C. Hess, Theresa C. Adams, Lori Shields, John and Joyce Borcher, Lois Rooney, Charles Archibald, Yolanda Taylor-Hudson, and Mary Mann Reifsteck,	)	
	)	**PCB No. 2027-002**
Petitioners,	)	
v.	)	
Area Disposal Service, Inc. and Village of Rantoul,	)	
Respondents.	)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on October 19, 2026, Area Disposal Service, Inc. electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the attached MOTION FOR RECONSIDERATION OF THE BOARD'S DECISION NOT TO RULE ON AREA DISPOSAL SERVICE, INC.'S MOTION TO DISMISS PETITIONERS' FUNDAMENTAL FAIRNESS CLAIM, a copy of which is hereby served upon you.

/s/ Janaki Nair
Janaki Nair

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CERTIFICATE OF E-MAIL SERVICE

The undersigned attorney certifies that she served a copy of the foregoing NOTICE OF ELECTRONIC FILING and the following MOTION FOR RECONSIDERATION OF THE BOARD'S DECISION NOT TO RULE ON AREA DISPOSAL SERVICE, INC.'S MOTION TO DISMISS PETITIONERS' FUNDAMENTAL FAIRNESS CLAIM, to the parties on the attached service list, by sending a copy to the email addresses designated on the service list on or before 4:30 p.m. on October _, 2026.

/s/ Janaki Nair
One of the Attorneys for Area Disposal Service, Inc.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Kenda C. Hess, Theresa C. Adams, Lori Shields, John and Joyce Borcher, Lois Rooney, Charles Archibald, Yolanda Taylor-Hudson, and Mary Mann Reifstock,	)	
Petitioners,	)	**PCB No. 2027-002**
v.	)	
Area Disposal Service, Inc. and Village of Rantoul,	)	
Respondents.	)	

MOTION FOR RECONSIDERATION OF THE BOARD'S DECISION NOT TO RULE ON AREA DISPOSAL SERVICE, INC.'S MOTION TO DISMISS PETITIONERS' FUNDAMENTAL FAIRNESS CLAIM

NOW COMES Respondent, Area Disposal Service, Inc. ("Area Disposal"), by its undersigned counsel, pursuant to Section 101.520 of the Procedural Rules of the Illinois Pollution Control Board (35 Ill. Adm. Code § 101.520), and hereby moves the Board for reconsideration of its October 15, 2026 Order granting in part and denying in part Area Disposal's motion to dismiss, and denying Area Disposal's motion for leave to file a reply in support of its motion. Specifically, Area Disposal respectfully requests that the Board reconsider its decision not to address and rule on the portion of Area Disposal's motion seeking dismissal of Petitioners' fundamental fairness claim. Contrary to the Board's ruling, Area Disposal's request to dismiss that claim was not rendered moot by the Board's decision that some of the Petitioners have standing to pursue Board review of siting approval for Area Disposal's Rantoul Transfer Station. In support of the Motion, Area Disposal states as follows:

BACKGROUND

1. Area Disposal filed a motion to dismiss on September 1, 2026 ("Motion"). The Motion identified two separate and independent grounds for why Petitioners' claims should be dismissed. First, the Motion argued that the Petition should be dismissed in its entirety because all Petitioners lack standing, as they did not participate in the siting hearing. (*See* Motion at 4-9). Second, the Motion argued that Petitioners failed to state a claim that the siting proceeding was not fundamentally fair. There are two separate reasons that that Petitioners' fundamental fairness claim fails. One is that the Petition failed to allege any specific facts that, even if true, would establish such a claim. (*Id*. at 9-12). The other is that, in order to preserve any fundamental fairness claim for Board review, Petitioners were required to raise their fairness concerns during the siting proceeding; because they did not, the claim is waived. (*Id*. at 12-13).

2. After Petitioners filed their response to the Motion, Area Disposal filed a motion for leave to file a reply brief solely addressing the Petition's failure to state a claim for lack of fundamental fairness ("Motion for Leave").

3. The Board ruled on the Motion and the Motion for Leave in an order dated October 15, 2026 ("Order"). The Order first considered Area Disposal's standing argument. The Board found that five of the Petitioners have established standing, but that the remaining four have not. Accordingly, the Board dismissed those four Petitioners. Area Disposal is not seeking reconsideration of the Board's rulings with respect to the standing of any of the Petitioners.

4. In the Order, the Board did not, however, rule on the part of the Motion challenging the validity of Petitioners' fundamental fairness claim. In declining to address Area Disposal's arguments, the Board stated that "[b]ecause the Board resolves the motion to dismiss on the basis of the statutory participation requirement, it does not reach Area Disposal's arguments concerning

the sufficiency of Petitioners' fundamental-fairness allegations or whether Petitioners forfeited that claim by failing to raise it during the local siting proceeding." (Order at 15).

ARGUMENT

5. Section 101.520 of the Board's procedural rules, 35 Ill. Adm. Code 101.520, allows for a motion for reconsideration of a Board order within 35 days of receipt of the order. This motion for reconsideration is timely filed within 35 days of the October 15, 2026 Order.

6. When ruling on a motion for reconsideration, the Board must determine whether the decision at issue was made in error. *See* 35 Ill. Adm. Code 101.902. It is well-settled that a motion for reconsideration is proper "to bring to the [Board's] attention…errors in the [Board's] previous application of existing law." *People of the State of Illinois v. Packaging Personified, Inc.*, PCB 04-16, 2012 WL 707433, at *18 (March 1, 2012) (quoting *Citizens Against Regional Landfill v. County Board of Whiteside County,* PCB 92-156, slip op. at 2 (Mar. 11, 1993).

7. The Board's decision not to address the merits of the arguments in the Motion for why Petitioners' fundamental fairness claim should be dismissed was an error in the application of law. The Petitioners' standing to challenge the outcome of the siting procedure as a whole is a separate legal issue from whether the Petition states a claim that the siting process was not fundamentally fair. Area Disposal is entitled to a ruling on both issues.

8. Standing is a threshold issue for any claim before the Board. *See Mill Creek Water Reclamation Dist. v. Illinois E.P.A.*, 2012 IL App (2d) 110474-U, ¶ 21. Standing, however, is necessary, but not sufficient for a claim to proceed. Had the Board found that *all* Petitioners lacked standing, the Board could have declined to address fundamental fairness issue, which goes to the merits of Petitioners' claim. In that case, the Board would have properly dismissed the Petition in its entirety on standing grounds, and thus where there was an additional reason to dismiss a portion

of the Petition would have been moot. Because the Board found that some Petitioners do have standing, however, it is now necessary to determine whether they have adequately alleged lack of fundamental fairness.

9. *Petta v. Christie Bus. Holding Co., P.C.*, 2023 IL App (5th) 220742, aff'd sub nom., 2025 IL 130337, is instructive. In that case, the defendant moved to dismiss the complaint for both lack of standing and failure to state a claim. The trial court found that plaintiff had standing, but then determined that the complaint failed to state a claim, and it therefore dismissed the complaint. On review, the appellate court found that the plaintiff did not have standing. It therefore affirmed dismissal on standing grounds, without reaching the question of whether the plaintiff had stated a claim.

10. Area Disposal does not dispute that the Board's determination that some Petitioners have standing means the proceeding will continue with respect to review of the siting criteria. That is because standing was the only grounds on which Area Disposal challenged that portion of the Petition. Because Area Disposal has, however, identified separate reasons for dismissal of the fundamental fairness claim (i.e., failure to allege sufficient facts and waiver, as explained above and in the Motion), those challenges to the Petition must be addressed at the pleading stage.

11. For the same reasons it was error not to decide the Motion with respect to the fundamental fairness claim, it was error not to rule on the Area Disposal's Motion for Leave. That motion should also be granted, so that the Board may consider the arguments made therein when ruling on the Motion.

12. Although it will not be completely dispositive of this case, resolving the fundamental fairness claim in Area Disposal's favor will significantly reduce the scope of the proceeding. Valid claims that the siting proceeding was not fundamentally fair allow for a narrow

exception to the general rule that, on review, "the PCB must confine itself to the record developed by the local siting authority." *Land & Lakes Co. v. Illinois Pollution Control Bd.*, 319 Ill. App. 3d 41, 48 (2000); *see also* 415 ILCS 5/40.1. Relying on their fundamental fairness claim, Petitioners have issued extensive discovery requests, seeking substantial information and documents from Area Disposal. Petitioners and Area Disposal currently have a dispute about whether that discovery is relevant and permissible. Although Area Disposal contends that the discovery is irrelevant and impermissible regardless of whether Petitioners' fundamental fairness claim is dismissed, dismissing that claim would moot the parties' discovery dispute, unquestionably obviate the need for any discovery, and greatly reduce the scope of this case.

WHEREFORE, Respondent Area Disposal Service, Inc. respectfully requests that the Board enter an order granting this Motion for Reconsideration, granting Area Disposal Service, Inc.'s motion for leave to file its Reply in Support of its Motion to Dismiss *instanter*, granting Area Disposal Service, Inc.'s Motion to Dismiss Petitioners' Fundamental Fairness Claim, and granting such other relief as the Board deems proper.

Respectfully submitted,

AREA DISPOSAL SERVICE, INC.,
Respondent

By: /s/ Janaki Nair
One of its attorneys

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