Case No. 24-0682

UNITED STATES COURT OF APPEALS
FOR THE TWELFTH CIRCUIT

VANDALIA ENVIRONMENTAL ALLIANCE,
Plaintiff - Appellant,

V.

BLUESKY HYDROGEN ENTERPRISES,
Defendant - Appellee.

Interlocutory Appeal from the United States District Court
for the Middle District of Vandalia

Civil Action No. 25-0682

BRIEF OF APPELLANT VANDALIA ENVIRONMENTAL ALLIANCE

TEAM NO. 15
Counsel of Record

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes & Other Authorities

ISSUES PRESENTED

1. Whether the district court correctly stayed its proceedings pending appeal under Coinbase, Inc. v. Bielski, 599 U.S. 736 (2023).

2. Whether the Vandalia Environmental Alliance has standing to bring a public nuisance claim based on a special injury distinct from that suffered by the public.

3. Whether the district court correctly determined that Bluesky's emissions of PFOA constitute disposal of solid waste under the Resource Conservation and Recovery Act.

4. Whether the irreparable harm prong of the Winter test may be satisfied by evidence of harm to the public, rather than just the plaintiff.

IN THE UNITED STATES COURT OF APPEALS
FOR THE TWELFTH CIRCUIT

VANDALIA ENVIRONMENTAL ALLIANCE, Plaintiff - Appellant, v. BLUESKY HYDROGEN ENTERPRISES, Defendant - Appellee.	Case No. 24-0682

JURISDICTIONAL STATEMENT

The United States District Court for the Middle District of Vandalia had subject-matter jurisdiction under 28 U.S.C. § 1331 because this case arises under the Resource Conservation and Recovery Act, 42 U.S.C. § 6972(a)(1)(B). The District Court also exercised supplemental jurisdiction over a state-law public nuisance claim under 28 U.S.C. § 1367(a). This Court has jurisdiction over the appeal from the order granting a preliminary injunction under 28 U.S.C. § 1292(a)(1). This Court also has jurisdiction over the appeal from the stay order under 28 U.S.C. § 1292(b), which the District Court certified and this Court permitted. BlueSky Hydrogen Enterprises ("Bluesky") filed its notice of appeal on December 1, 2025. The Vandalia Environmental Alliance ("VEA") timely sought permission to appeal the stay order. No final judgment has been entered.

I. INTRODUCTION

This Court should affirm the district court's granting of a preliminary injunction to stop Bluesky Hydrogen Enterprises ("Bluesky") from polluting the land and groundwater with Perfluorooctanoic Acid ("PFOA"). Additionally, this Court should reverse the district court's order granting a stay pending appeal.

The primary purpose of the Resource Conservation and Recovery Act ("RCRA") is to reduce the generation of hazardous waste and to ensure the proper treatment, storage, and "disposal" of the waste that is produced, to minimize present and future threats to human health and the environment. *Meghrig v. KFC W.*, 516 U.S. 479, 483 (1996). RCRA was enacted to close the last remaining loophole in environmental law governing land "disposal" of discarded materials and hazardous waste. *Interfaith Cmty. Org. v. Honeywell Int ' l, Inc.*, 399 F.3d 248, 260 (3d Cir. 2005)(quoting H.R. Rep. No. 1491, 94th Cong., 2d Sess. 4). The Imminent and Substantial Endangerment ("ISE") Provision was intended to give the courts the authority to eliminate any risks posed by toxic wastes. *Id.* (quoting S. Rep. No. 98-284, 98th Cong., 1st Sess. at 59 (1983)).

The Vandalia Environmental Alliance ("VEA") is asking this Court to ensure RCRA is enforced based on the congressional intent and plain meaning of the statute.

II. FACTS & PROCEEDINGS BELOW

A. Background

The VEA is a public-interest organization based in Vandalia and has members in the town of Mammoth. R. 7. They are committed to educating and encouraging others on how to protect their state and live more sustainably, including an opportunity for community members to learn

how to start and maintain a small farm and garden. *Id.* All food grown through the program is used for events held on the farm or donated to local food banks. *Id.*

Bluesky is a hydrogen plant that opened a facility in Mammoth, Vandalia, in 2023 that converts waste streams into energy. R. 4. This approach is designed to reduce waste materials from being landfilled while creating a reliable source of energy. R. 5. This waste-to-hydrogen process has the potential for producing air emissions such as carbon dioxide and nitrogen oxide, and so Bluesky has a Title V Clean Air Act Permit. *Id.*

The Mammoth Public Service District ("PSD") has its water supply tested yearly for unregulated contaminants. R. 7. The test results from 2024 revealed PFOA levels of 3.9 ppt in the Mammoth water supply that had not been previously detected in 2023. *Id.* PFOAs are a "forever chemical" that do not break down in the environment and cause health risks such as cancer, birth defects, and liver problems. *Id.* The EPA has set a maximum contaminant level for PFOAs at 4 ppt, but producers have until 2029 to comply. *Id.*

The VEA had suspected that Bluesky was responsible for the PFAS contamination, given that the contamination began when Bluesky arrived. *Id.* A Freedom of Information Act ("FOIA") request later revealed that Bluesky accepts industrial sludge from a wastewater treatment plant that contains PFOAs. *Id.* The sludge was then processed by Bluesky for conversion to hydrogen, but the PFOAs survived the process and were emitted into the air as a result. R. 8.

The aerial emissions of PFOAs through Bluesky's stacks land on surrounding land, including the VEAs, and into the groundwater. *Id.* Bluesky cedes that their facility has contaminated the drinking water with PFOA emissions and that it would cause harm to public health. R. 13. The VEA and its members have ceased drinking the water, but the townspeople of

Mammoth continue to consume it. *Id.* Additionally, the VEA is no longer able to provide programs to the community or donate the food they have grown due to the contamination. R. 9. This contamination undermines the organization's mission and will result in losing the goodwill they have established in the community. *Id.*

The town of Mammoth will not have technology available to treat the water supply until two years from now. R. 8. The townspeople continue to drink the water either due to a lack of awareness or an inability to afford an alternative water source. *Id.*

The VEA brought action against Bluesky in the United States District Court for the Middle District of Vandalia. R. 11.

B. District Court Proceedings

The Vandalia Environmental Alliance filed this RCRA action in federal district court in Vandalia, alleging that Bluesky contaminated their private property and the town of Mammoth's drinking water. The VEA brought claims against Bluesky under the common-law public nuisance and the RCRA citizen-suit provision for imminent and substantial endangerment. R. 11. The VEA moved for a preliminary injunction, citing irreparable harm to both themselves and the entire town of Mammoth if Bluesky's PFOA emissions do not cease. Bluesky argued that the VEA suffered no special injury, that emissions are not disposed of under RCRA, and that they could not show sufficient irreparable harm. R. 12.

The district court granted the motion for preliminary injunction because the VEA had standing and was likely to suffer irreparable harm absent relief. R. 14. The district court determined that the VEA suffered an injury that differed from the general public and that emissions of PFOA are "disposal" under RCRA. R. 15. Bluesky filed a motion to stay

proceedings in the lower court pending appeal. The district court granted the motion, believing it was mandatory under Coinbase. R. 16. The VEA requested an interlocutory appeal of the district court's stay order, which was granted. The District Court's order granting the VEA's preliminary injunction was entered on November 24, 2025. The District Court's order staying proceedings pending appeal was entered on December 8, 2025. Neither order has been reported. R. 1-2.

The Twelfth Circuit Court of Appeals consolidated Bluesky's appeal of the preliminary injunction with the VEA's interlocutory cross-appeal. *Id.* They were ordered to brief and argue the issues that are set forth below.

III. SUMMARY OF THE ARGUMENT

The district court stayed this case based on a legal error. Under *Coinbase*, an automatic stay does not apply to appeals from preliminary injunctions; it applies only when the appeal determines whether the dispute can be resolved in court at all. *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023). A district court is divested of jurisdiction only over the specific order on appeal, not the entire case. *Coinbase* applies in situations involving forum control, such as arbitration or remand, not routine preliminary injunction appeals. BlueSky's appeal does not affect jurisdiction, forum, or the court's ability to reach the merits, so discovery and trial preparation may continue. *Id.* Extending *Coinbase* here would improperly allow defendants to freeze litigation simply by appealing a preliminary injunction. Because *Coinbase* does not mandate a stay, the district court's stay order should be vacated. *Id.*

Addressing issue two, the VEA has private standing because this is not a vague environmental worry. It is a direct hit to the VEA's own land. PFOA emissions from the SkyLoop facility did not just raise abstract concerns about water quality or public health. They

traveled through the air and settled onto the VEA's farm, contaminating its soil and crops. That kind of physical intrusion turns a general environmental problem into a concrete property injury. When pollution crosses a property line and renders land unsafe for use, the harm shifts from public to private law. This is also not a case about governments trying to recover the costs of regulating or responding to a community-wide problem.

The VEA is not seeking reimbursement for programs or services; it is seeking a remedy for damage to its own property. The contamination has compelled the VEA to shut down farming operations, cease food donations, and suspend educational activities on land it owns and operates. That loss of use is specific, tangible, and tied to a single parcel of land. Even if other farms are also affected, the VEA's injury remains a classic special injury. Pollution on its own property impairs its ability to use the land.

The district court's order granting a preliminary injunction must be affirmed because the VEA is likely to succeed on the merits. The district court found the meaning of the word "disposal" as defined in RCRA to include the aerial emissions of PFOAs following the same reasoning as in *Little Hocking Water Ass'n, Inc. v. E.I. du Pont Nemours & Co.,* 91 F. Supp. 3d 940 (S.D. Ohio 2015). R. 15. The court in *Little Hocking* found "disposal" to occur when solid waste is emitted into the air, settles onto land, and remains there. *Id.* at 965. This court should adopt the same definition rather than narrowing the scope of the statute.

Bluesky asks this court to adopt the definition of "disposal" as stated in *BNSF Railway. Ctr. for Cmty. Action & Envtl. Justice v. BNSF Ry. Co.,* 764 F.3d 1019 (9th Cir. 2014). However, the Ninth Circuit exceeds the Supreme Court constraints on statutory interpretation. The Ninth Circuit has created ambiguity in the statute, which was intended to be broad, by adding words and a sequencing requirement to narrow it. The Supreme Court has advised against that form of

statutory interpretation. *United States v. Burgess,* 576 U.S. 296, 300 (2015). Bluesky seeks to exploit this loophole to avoid liability; however, RCRA was designed to close the last remaining loophole in environmental law. *Interfaith Cmty. Org.,* 399 F.3d at 260.

Additionally, if this court does not find that the PFOA aerial emissions were disposed of, Bluesky remains liable because it contributed to the handling and treatment of solid waste, which is sufficient under the ISE provision. No "disposal" is required for a polluter to be held liable for the damage they cause. *Goldfarb v. Mayor & City Council of Balt.,* 791 F.3d 500, 514 (4th Cir. 2015).

Affirming the preliminary injunction is necessary to ensure that the townspeople of Mammoth and the environment do not face irreparable harm. A preliminary injunction can only be upheld when irreparable harm would occur in its absence. Irreparable harm to the public or the environment is sufficient to grant a preliminary injunction so long as it's in the public's best interest. *Id.*; *Amoco Prod. Co. v. Vill. of Gambell,* 480 U.S. 531, 545 (1987). It is irrelevant that the VEA may not suffer irreparable harm itself because the public's best interest is to uphold the injunction.

This Court should affirm the district court's granting of a preliminary injunction in favor of the VEA and reverse the district court's holding to grant a stay pending appeal.

IV. ARGUMENT

A. Standard of Review

This Court reviews the district court's grant of a preliminary injunction for abuse of discretion, reviewing legal conclusions de novo and factual findings for clear error. *Winter v. Nat. Res. Def. Council, Inc.,* 555 U.S. 7, 24 (2008).

Statutory interpretation and Article III standing are reviewed de novo. *Burgess,* 576 U.S. at 300; *Spokeo, Inc. v. Robins,* 578 U.S. 330, 338 (2016).

The district court's decision to stay proceedings pending appeal is reviewed for abuse of discretion, while any determination that a stay is required as a matter of law is reviewed de novo. *Nken v. Holder,* 556 U.S. 418, 433–34 (2009).

B. Scope of Appeal

In these consolidated interlocutory appeals, BlueSky raises narrowly confined legal issues. To adhere to the proper scope of review, it is important that the Court recognize issues not properly before it, as BlueSky has not raised them. On this appeal:

- BlueSky has not raised any argument that PFOA emissions are not "solid waste" or "hazardous waste" under RCRA.
- BlueSky has not asserted that the endangerment was neither imminent nor substantial within the meaning of RCRA, focusing instead on whether the VEA could demonstrate irreparable harm. R. 12.
- BlueSky has not raised an argument that the federal courts lack jurisdiction over this RCRA citizen suit or that the VEA was barred from invoking it. R. 12.

Accordingly, the VEA has not briefed on these issues.

By its own submissions, what BlueSky *has* appealed—and what is properly before this Court—is whether the district court erred in concluding that BlueSky's emissions constitute "disposal" or handling under RCRA, whether the VEA demonstrated special injury and irreparable harm, and whether a stay of proceedings was required pending appeal. R. 12–16.

C. Denying the Stay

The district court misapplied *Coinbase* in staying its proceedings pending appeal, because that decision does not require freezing the case simply because the preliminary injunction is under review. *Coinbase,* 599 U.S. 736. A district court is divested of jurisdiction only as to the specific order and issues under review on interlocutory appeal, and an appeal from a preliminary injunction does not automatically strip the court of authority to proceed with discovery and litigation. *Griggs v. Provident Consumer Disc. Co.*, 103 U.S. 400 (1982). The preliminary injunction remains in effect unless stayed or vacated by the court of appeals. Furthermore, *Coinbase* applies to arbitration appeals because they involve a party's contractual right to avoid litigation altogether, which is a fundamentally different concern from this case. *Coinbase,* 599 U.S. 736; *City of Martinsville v. Express Scripts, Inc.*, 128 F.4th 265 (4th Cir. 2025).

City of Martinsville. demonstrates that Coinbase's automatic-stay rule applies only when an interlocutory appeal concerns whether a case may proceed in court at all, not when the appeal merely challenges a preliminary injunction. *City of Martinsville*, 128 F.4th at 269. In *City of Martinsville*, the defendants moved for a stay because mailing the remand order would have immediately transferred jurisdiction to the state court and conclusively determined the forum. *Id.* at 270. The Fourth Circuit granted the stay because implementing the remand would have affected the order under appellate review, but that rationale does not apply here, where BlueSky's preliminary-injunction appeal does not determine forum, jurisdiction, or whether the case may proceed in district court. *Id.* at 271.

Likewise, *Coinbase* is an arbitration-specific decision intended to protect a party's contractual right to the forum in which the arbitration will be conducted. In *Coinbase*, the Supreme Court held that an interlocutory appeal from the denial of a motion to compel

arbitration requires a stay of district court proceedings because proceeding with litigation would irreparably destroy the right not to litigate in district court. *Coinbase, Inc.*, 599 U.S. at 744. In situations that involve arbitration, the right to avoid litigation is lost forever. However, in the context of an appeal from a preliminary injunction, those rights are not at risk.

Unlike arbitration, a preliminary injunction is a remedy that does not resolve the merits of the case. Appeals from preliminary injunctions do not determine final liability and do not give the appellee the right to avoid trial altogether. Accordingly, district court proceedings can continue during a preliminary injunction appeal and do not interfere with the appellate court's jurisdiction. The parts of the case that are divested are only "those aspects of the case involved in the appeal," not the entire action. *Griggs*, 103 U.S. at 400.

Courts have repeatedly declined to extend *Coinbase* to preliminary injunction appeals for precisely this reason. Expanding *Coinbase's* scope beyond arbitration would alter litigation by allowing any defendant who loses a preliminary injunction motion to freeze trial proceedings through an interlocutory appeal. As Justice Jackson warned, such an interpretation would "upend federal litigation as we know it," turning preliminary injunctions into ways to escape responsibility and avoid orders that are in place to protect the public. *Coinbase, Inc.,* 599 U.S. at 760.

That concern is directly implicated here. The district court expressly stated that it would not have stayed the case as a matter of discretion, but believed it was compelled to do so under *Coinbase*. R. 16. This was a legal error. Proceeding with discovery and trial preparation would not require the district court to revisit or undermine the injunction order on appeal.

This case illustrates why *Coinbase* should not be applied outside the arbitration context or contexts in which jurisdiction is at issue. The VEA has already invested significant resources in discovery and expert preparation for a May 2026 trial, and the stay permits the environmental harm to continue unchecked while the case remains frozen. *Id.* Because *Coinbase* does not mandate a stay of district court proceedings pending appeal of a preliminary injunction, the district court's stay order was improper and should be vacated.

D. Public Nuisance Standing

The VEA has private standing to bring a public nuisance claim because it has suffered a special injury that is different in kind, not merely degree, from the harm experienced by the general public. A private plaintiff may maintain a public nuisance action where the defendant's conduct results in a direct physical invasion of the plaintiff's land or otherwise substantially interferes with the plaintiff's use and enjoyment of property. *Ariz. Copper Co. v. Gillespie,* 230 U.S. 46 (1913); *Corradetti v. Sanitary Landfill, Inc.*, 912 F. Supp. 2d 156 (D.N.J. 2012); Restatement (Second) of Torts § 821B(1).

The issue is resolved once the harm is properly understood as a property-based injury, rather than a generalized grievance stemming from water contamination. In *Arizona Copper Co.*, the Supreme Court held that a private plaintiff could pursue a public nuisance claim where harmful substances were deposited onto the plaintiff's land, destroying his ability to irrigate and cultivate it. *Arizona Copper Co.*, 230 U.S. at 57. The Court emphasized that the plaintiff's injury was not a mere inconvenience shared by the public, but damage to a property interest that denied him the beneficial use of his land, thereby constituting a special injury sufficient to allow standing. *Id.*

Similarly, in *Corradetti*, the court found that plaintiffs adequately alleged a special injury where pollutants migrated onto their property and interfered with its use. *Corradetti*, 912 F. Supp. 2d at 163. The court distinguished this type of direct contamination and physical intrusion from generalized environmental harm, holding that pollution that actually settles onto a plaintiff's land and limits its use is an injury different in kind from the public's shared grievance. *Id.* at 164.

Cases that differ, such as *In re Lead Paint Litigation*, where the harm is not damage to property possessed by the plaintiffs, but rather broad, public-health burdens associated with childhood lead exposure, show the difference in how public grievances are treated. *In re Lead Paint Litig.*, 191 N.J. 405 (2007). There, the municipalities did not allege that lead paint physically invaded or damaged municipal land, buildings, or operations; instead, they sought reimbursement for costs of inspections, abatement programs, medical treatment for residents, and public education initiatives. *Id.* at 409. Those costs arose from the plaintiffs' role as governmental actors responding to a community-wide problem, not from any interference with their property interests. *Id.* at 428. Because the alleged injuries were not different in kind from harms experienced by the public at large and could be asserted by any municipality confronting lead exposure, the Court held they did not satisfy the special injury requirement to support a public nuisance claim. *Id.* at 446.

However, the harm alleged here is not a generalized public health but a concrete physical invasion of the VEA's own land. Multiple municipalities had the same problem in *In re Lead*. Here, the issue of VEA's unique land and property rights distinguishes it. Even if similar contamination affects neighboring farms, the VEA's injury –physical damage to its own land–

falls outside the reasoning that was upheld in *Lead Paint* and satisfies the special-injury requirement.

Similar to *Corradetti*, PFOAs emitted from BlueSky's SkyLoop facility have migrated through the air and settled onto VEA's farm, contaminating the soil and crops and preventing VEA from using the land for its intended agricultural and educational purposes, including supplying food at VEA-hosted events and donating produce to community shelters. R. 9. The record establishes that BlueSky's emission stacks are located approximately 1.5 miles south of VEA's property, and that prevailing winds carry emissions northward directly toward the farm, resulting in direct deposition of PFOAs onto VEA's land. R. 7.

This is not a generalized complaint about environmental risk or water quality. It is a physical invasion of property that substantially interferes with VEA's possessory and use rights, making its land unsafe for farming and frustrating the very purposes for which the property is used. R. 9. Such invasions of property rights are categorically different from injuries suffered by the public at large and constitute a classic special injury under public nuisance law, which is sufficient to support private standing.

E. PFOA Aerial Emissions Are "disposal" Under RCRA

Bluesky asserts that the PFOA aerial emissions from its stacks are not disposed of under RCRA. R. 12. RCRA defines "disposal" as the discharge, spilling, dumping, leaking, or placing of any solid waste into or on any land or water so that the waste or its constituents may enter the environment, be emitted into the air, or be discharged into any waters, including groundwater. 42 U.S.C. § 6903(3).

Bluesky relies on the Ninth Circuit's definition of "disposal" to support its assertion that emissions are not "disposal." However, the Ninth Circuit's interpretation of the statute falls outside the interpretation guidelines that the Supreme Court has set forth. Their interpretation of the term "disposal" cannot be relied upon.

Additionally, Bluesky implicitly asserts that "disposal" is necessary to establish an ISE claim. Private citizens may seek relief against any person who is contributing to the *handling, treatment, storage, or "disposal"* of any solid or hazardous waste that may present an imminent and substantial endangerment to health or the environment. 42 U.S.C. § 6972(a)(1)(B).

If this Court cannot find that Bluesky's aerial emissions were "disposal", it may more easily conclude that Bluesky is contributing to the handling or treatment of solid waste. This court need only find one way that Bluesky has contributed to solid waste contamination that presents an imminent and substantial endangerment.

Therefore, the Vanelia Environmental Alliance will succeed on the merits of its RCRA ISE claim because aerial emissions of PFOA constitute "disposal", or, in the alternative, Bluesky has contributed to the handling or treatment of solid waste that has resulted in imminent and substantial endangerment.

1. Disposal Does Not Require Waste To Be Directly Injected Or Placed On Land.

"Disposal" occurs when solid waste is emitted into the air, settles onto land, and remains there. *Little Hocking Water Ass'n ,* 91 F. Supp. at 965. Because RCRA's imminent and substantial endangerment provision is remedial, it must be construed liberally rather than restrictively. *Id.* at 964.

In *Little Hocking,* the plaintiff brought a citizen suit alleging that the defendant released PFOA through stack air emissions that were carried by wind and deposited onto the plaintiff's

vegetation and surface soils. *Id.* at 963. Once the particulate matter settled onto land, the court held that it constituted "discarded material" and was therefore "solid waste" under RCRA. *Id.* at 964. The court rejected the narrow view that waste must be placed directly on land or water to constitute "disposal". *Id.* RCRA's definition of "disposal" expressly includes waste that is "emitted into the air" and later enters the environment, and the court applied that text as written. *Id.* at 962–63 (quoting 42 U.S.C. § 6903(3)).

Although *Little Hocking* is a district court decision, its reasoning is persuasive because it applies the statutory text directly to facts involving airborne PFAS contamination. The court explained that, for purposes of an imminent and substantial endangerment claim, contamination caused by aerial deposition is indistinguishable from contamination caused by direct discharge onto land or water. *Id.* at 965.

As in *Little Hocking,* the VEA's land and water are being contaminated by Bluesky's PFOA air emissions rather than by waste being placed directly on land or into groundwater. Bluesky released PFOA-containing particulate matter through its SkyLoop stacks, and prevailing winds carried those particles onto surrounding soil, including the Mammoth Public Service District's wellfield. R. 8. Once deposited, the PFOA remained on land and migrated into groundwater.

Under RCRA, "disposal" occurs when solid waste is placed onto land or water in a manner that allows it to enter the environment, and the path the waste takes before reaching land does not change that result. *Little Hocking,* 91 F. Supp. 3d at 965.

Bluesky's assertion that "disposal" cannot occur unless waste is first placed directly onto land or water improperly narrows the statute and excludes precisely the type of contamination RCRA was enacted to address. That argument elevates form over substance and would create a

loophole that allows polluters to avoid liability by releasing solid waste into the air. RCRA does not permit that result.

The district court correctly concluded that the VEA is likely to succeed on the merits because once PFOA aerial emissions settled onto land and entered groundwater, they were disposed of.

2. The Ninth Circuit Incorrectly Adds A Sequencing Requirement While Interpreting the Word "Disposal".

Bluesky relies almost exclusively on the Ninth Circuit's interpretation of the word "disposal" to help make its claim that the VEA cannot succeed on the merits. R. 13. The Ninth Circuit has held that diesel particulate matter emitted from vehicles does not constitute the "disposal" of solid waste under RCRA. *BNSF Ry. Co.,* 764 F.3d at 1019.

Where Congress uses broad statutory language, courts must give it full effect rather than narrow it through interpretation or by adding requirements not found in the text. *Burgess*, 576 U.S. at 304; *United States v. Gonzales,* 520 U.S. 1, 5 (1997). When a statute provides a straightforward command, there is no need to resort to legislative history. *Id.* at 4. An awkward or imperfectly drafted statute is not ambiguous, and courts may not rewrite statutory language to reflect what Congress *might* have intended. *Lamie v. U.S. Tr.,* 540 U.S. 526, 542 (2004).

In *BNSF Railway*, the Ninth Circuit defined "disposal" to require that solid waste be initially placed into or on land or water **before** it may **later** enter the environment or be emitted into the air. *BNSF Ry. Co.,* 764 F.3d at 1025. Under that approach, the phrase "so that such solid waste or any constituent thereof may enter the environment or be emitted into the air" is treated as operative only after waste has already been deposited onto land or water. *Id.*

Like in *BNSF Railway*, Bluesky's emissions of PFOA were emitted into the air before settling on land and water. Under *BNSF Railway,* these emissions are not disposed of; however, this Court should not apply this definition of "disposal". The Supreme Court has added constraints to statutory interpretation.

Courts may not interpret a broad statute in a way that narrows its scope, such as adding words or requirements not found in the text. *Burgess*, 576 U.S. at 304. This is exactly what the Ninth Circuit has done in defining the term "disposal". The language of RCRA was intended to be broad and applied liberally rather than restrictively because it is remedial. *Little Hocking Water Ass'n,* 91 F. Supp. 3d at 965. The Ninth Circuit has impermissibly added words to RCRA, such as "first" and "thereafter", that are not found in the ISE provision. *BNSF Ry. Co.,* 764 F.3d at 1024. They have narrowed a broad statute in such a way that the Supreme Court does not allow.

Additionally, the Ninth Circuit deemed RCRA ambiguous and, in doing so, reflected on legislative intent and history to define "disposal". Although this method is permitted when ambiguity is found, courts may not add words or rewrite statutory language to reflect what Congress *might* have intended. *Lamie,* 540 U.S. at 542. Applying *Lamie*, the Ninth Circuit's definition of "disposal" incorrectly added words to reflect a sequencing requirement that Congress *might* have intended. This method of interpretation is not permitted by the Supreme Court, and therefore, should not be permitted by this Court.

Even if this Court were inclined to follow the Ninth Circuit's interpretation despite its inconsistency with the Supreme Court, *BNSF Railway* is distinguishable. In *BNSF Railway,* the plaintiffs alleged diesel particulate air pollution and made no claim that the land or water was polluted. Here, by contrast, BlueSky's PFOA emissions travel via aerial emissions, but settle on

and contaminate the land and groundwater. R. 9. This falls comfortably within the ordinary meaning of "disposal" and RCRA's remedial purpose. Bluesky essentially argues that its PFOA deposits on the land are not "disposal" because gravity carried them there.

Moreover, *BNSF Railway* involved mobile-source emissions associated with locomotive operations. This case concerns a stationary industrial facility that processes waste containing PFOAs and discharges those contaminants via controlled stack emissions. The permanent deposition and accumulation of hazardous waste from a fixed source materially distinguishes this case from the transient air pollution addressed in *BNSF Railway.* Accordingly, even under the Ninth Circuit's framework, BlueSky's conduct falls outside the scope of *BNSF Railway* and within RCRA's reach.

The district court correctly determined that the VEA is likely to succeed on the merits because the ordinary meaning of the word "disposal" in RCRA includes solid waste that reaches the ground, even with the help of gravity.

3. BlueSky Handled The Solid Waste.

If this court chooses to adopt the Ninth Circuit's definition of "disposal," the VEA will *still* succeed on the merits. A RCRA claim does not require "disposal"; it may be based on handling, storage, treatment, transportation, *or* any combination of these. *Goldfarb,* 791 F.3d at 514. A court errs when it focuses narrowly on the "disposal" of solid waste and ignores allegations of handling and treatment that contribute to contamination. *Id.*

"Handling" encompasses the act of dealing with or managing a thing and does not require final "disposal". *Id*. at 516. "Treatment" includes any activity or processing designed to change

the physical form or chemical composition of hazardous waste so as to render it nonhazardous. 42 U.S.C. § 6903(34).

In *Goldfarb,* plaintiffs brought a RCRA citizen suit alleging that hazardous waste contamination at a former industrial site was migrating to nearby land and water. *Goldfarb,* 791 F.3d at 505. The defendant argued that he was not liable under RCRA because he did not dispose of waste. *Id.* at 515. The Fourth Circuit held that the district court erred by focusing only on "disposal". Even if the alleged migration were not considered "disposal," the complaint plausibly alleged handling, which independently satisfies RCRA's citizen-suit provision. *Id.*.

Like in *Goldfarb*, "disposal" is not a requirement for Bluesky's liability under RCRA's imminent and substantial endangerment provision. If this Court were to conclude that Bluesky's PFOA emissions do not constitute "disposal", liability still attaches because Bluesky actively handled and treated PFOA-containing waste in a manner that caused contamination. The record reflects this.

Bluesky receives biosolids from wastewater treatment plants and byproducts from chemical companies that they "handle" and "transport to the skyloop plant." R. 5. Once transported, it goes through a process to "remove impurities". *Id.* These processes can readily be classified as handling, as Bluesky actively manages solid waste through them. *Id.* The handling of waste does not require its final "disposal".

Additionally, after the feedstock arrives at the Bluesky plant, the material is subjected to "thermal and chemical processes ... that produce a hydrogen-rich gas". *Id*. The process that converts solid waste to hydrogen-rich gas to render it nonhazardous is "treatment" under RCRA. 42 U.S.C. § 6903(34). During this treatment, PFOA is emitted from the stacks, making Bluesky liable for the resulting contamination.

Bluesky's argument focuses exclusively on whether aerial emissions qualify as "disposal", while ignoring the statute's broader reach. R. 12. RCRA does not require a plaintiff to prove "disposal" where contribution to handling or treatment is independently established. *Goldfarb,* 791 F.3d at 516. As *Goldfarb* emphasizes, the operative term in the statute is "contributed," not the specific manner in which that contribution occurred. *Id.* This Court should therefore consider not only whether Bluesky disposed of PFOAs, but also whether it affirmatively engaged in any of the statutorily enumerated activities that led to contamination.

The VEA is likely to succeed on the merits because Bluesky contributed to the handling, treatment, and "disposal" of solid waste that posed an imminent and substantial endangerment to health and the environment.

F. Irreparable Harm

The harm caused by Bluesky emitting PFOA from their stacks includes contamination of the town's water supply and contamination of the VEA's soil and crops. R. 9. Since discovering the contamination, the VEA and its members have stopped drinking the water and have stopped providing food to the community that is grown on the farm. *Id.*

Bluesky argues that a preliminary injunction is unnecessary because the VEA will not suffer irreparable harm in the absence of one. R. 13. They contend that, because the VEA no longer drinks the water or eats the food, irreparable harm cannot be shown. *Id.* Although the VEA may not suffer absent an injunction, the townspeople are still drinking the water, local agriculture is likely being contaminated and distributed, and the VEA's soil and crops remain at risk.

In the absence of a preliminary injunction, the public and the environment will suffer irreparable harm from PFOA "forever chemicals". When determining whether to grant or deny a preliminary injunction, the most important factor is whether the injunction is in the public interest. *Winter,* 555 U.S. 7 at 22.

RCRA's imminent and substantial endangerment provision is forward-looking and designed to prevent ongoing or future harm. *Meghrig,* 516 U.S. at 486.

The VEA's preliminary injunction should be upheld because if the emissions of PFOA do not cease immediately, the damage done to health and the environment will be irreversible. In the absence of this injunction, people will suffer.

1. An Injunction is Granted or Denied Based On The Public's Best Interest.

A plaintiff seeking a preliminary injunction must demonstrate that irreparable harm is likely, not merely possible, in the absence of relief. *Winter,* 555 U.S. at 22 (2008). Because a preliminary injunction is an extraordinary remedy, courts require a clear showing of likely irreparable injury. *Id.* A plaintiff seeking a preliminary injunction must demonstrate (1) a likelihood of success on the merits, (2) a likelihood of irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in the plaintiff's favor, and (4) that an injunction is in the public interest. *Id*. at 20.

In *Winter*, the plaintiffs challenged the Navy's use of sonar during training exercises, alleging that the activity could harm marine mammals and impair their ability to study and observe them. *Id.* The United States Supreme Court held that, even assuming a likelihood of environmental harm, the balance of equities and the public interest favored the Navy's interest in effective military training and therefore did not support injunctive relief. *Id*. at 26.

Unlike in *Winter*, both environmental harm and the public interests favor granting a preliminary injunction. A preliminary injunction is warranted here because Vandalia is likely to succeed on the merits, faces irreparable harm absent relief, and seeks relief that serves the public interest.

Bluesky may argue that its waste-to-hydrogen technology provides a public benefit. Even assuming that such technology has potential value, that benefit cannot justify continued contamination of drinking water with PFAS—chemicals known for their persistence in the environment and potential health risks. *Winter* makes clear that asserted public benefits must be weighed against the nature and magnitude of the harm at issue, and the ongoing release of "forever chemicals" into a community's water supply cannot be reconciled with the public's best interest. *Id.* at 20.

Even if this Court were to conclude that harm to Vandalia's farm alone is insufficient, the ongoing risk to Mammoth's drinking water establishes irreparable harm to the public that warrants immediate relief.

2. The Balance Of Harms Favors An Injunction To Protect the Environment.

Ongoing or threatened environmental harm may constitute irreparable harm sufficient to support a preliminary injunction. *Amoco Prod. Co.,* 480 U.S. at 545. The Supreme Court has explained that "environmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, i.e., irreparable." *Id.* Where such environmental injury is "sufficiently likely," the balance of harms will "usually favor the issuance of an injunction to protect the environment." *Id.*

In *Amoco,* the Court considered whether a preliminary injunction was warranted to halt offshore oil and gas exploration alleged to threaten subsistence resources protected under the

Alaska National Interest Lands Conservation Act. *Id.* at 534–35. The United States Supreme Court ultimately denied injunctive relief because the injury to subsistence resources from the challenged exploration activities was "not at all probable," and therefore irreparable harm had not been established. *Id.* at 545.

The denial of relief in *Amoco* thus turned on the absence of a factual showing of likely harm, not on any categorical rule precluding the treatment of environmental injury as irreparable. *Id.* To the contrary, it reaffirmed that when environmental injury is sufficiently likely, equitable principles favor issuing an injunction. *Id*.

Applying the principles in *Amoco,* Vandalia's preliminary injunction should be granted because the likelihood of irreparable environmental harm is guaranteed absent relief. Irreparable harm is not limited to immediate personal exposure; it includes the continued degradation of soil, groundwater, and other environmental resources. *Id.* at 545. PFOAs are persistent "forever chemicals" that do not break down naturally and remain in soil and groundwater once released. R. 7. PFOAs that are being emitted onto the soil and the town's drinking water are sufficient for the VEA to establish irreparable harm. Ongoing contamination of drinking water and farmland constitutes irreparable harm even where affected parties take steps to avoid direct exposure.

Because the environmental injury here is continuing, cumulative, and irreversible in nature, it satisfies the irreparable-harm standard articulated in *Amoco*. *Id.* at 542. Injunctive relief is necessary to prevent further environmental damage and to halt the continued accumulation of PFAS in land and water. Granting the injunction is in the public's and the environment's best interest.

V. CONCLUSION

The VEA respectfully requests that this court affirm the district court order granting a preliminary injunction and reverse the district court order granting a stay pending appeal. The VEA has a special injury sufficient to bring a public nuisance claim, will succeed on the merits of its RCRA ISE claim, and will face irreparable harm in the absence of an injunction. Bluesky cannot continue to endanger the health and well-being of the people of Mammoth through its aerial emissions of PFOA.

CERTIFICATE OF SERVICE

Pursuant to Official Rule IV, Team Members representing Vandalia Environmental Alliance certify that our Team emailed the brief (PDF version) to the West Virginia University Moot Court Board in accordance with the Official Rules of the National Energy Moot Court Competition at the West Virginia University College of Law. The brief was emailed before 1:00 p.m. Eastern time, February 4, 2026.

Respectfully submitted,

Team No. 15