No. 24-0682

In the United States Court of Appeals for the Twelfth Circuit

Vandalia Environmental Alliance, Appellant,

v.

BlueSky Hydrogen Enterprises

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF VANDALIA

BRIEF FOR BLUESKY HYDROGEN ENTERPRISES

Team 17

Table of Contents

TABLE OF AUTHORITIES

CASES

STATUTES

OTHER AUTHORITIES

In the United States Court of Appeals for the Twelfth Circuit

Vandalia Environmental Alliance, Appellant,

v.

BlueSky Hydrogen Enterprises

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF VANDALIA

BRIEF FOR BLUESKY HYDROGEN ENTERPRISES

JURISDICTIONAL STATEMENT

The United States District Court for the Middle District of Vandalia has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331. The District Court entered an order granting the VEA's motion for a preliminary injunction against BlueSky Hydrogen Enterprises on November 24th, 2025. BlueSky Hydrogen Enterprises filed an appeal on December 1st, 2025. The District Court granted BlueSky Hydrogen Enterprises' motion to stay proceedings pending appeal on December 8th, 2025. The VEA timely sought permission to appeal, which this Court granted, consolidating both appeals by order on December 29th, 2025. The jurisdiction of this court is invoked under 28 U.S.C. § 1292(b).

ISSUES PRESENTED

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

II. Whether the VEA has a special injury sufficient to give it standing to bring its public nuisance claim for BlueSky's PFOA air emissions;

III. Whether BlueSky's air emissions of PFOA is considered "disposal" under RCRA and thus the district court correctly determined that the VEA was likely to succeed on the merits of its RCRA ISE claim; and

IV. Whether the irreparable harm prong of the Winter test considers only harm to the Plaintiff, or whether harm to the public can also be evidence of irreparable harm sufficient to issue a preliminary injunction.

STATEMENT OF THE CASE

BlueSky Hydrogen Enterprises, LLC ("BlueSky") operates the SkyLoop facility in the Middle District of Vandalia. (R. 4). SkyLoop is a modern waste-to-hydrogen facility that converts municipal and industrial waste into hydrogen fuel through a closed-loop thermal conversion process. (R. 4, 5). The facility was designed to minimize environmental impact and operates using enclosed systems that limit direct interaction between waste materials and the surrounding environment. (R. 5). SkyLoop operates pursuant to a Title V permit issued under the Clean Air Act. (R. 5). The permit establishes emissions limits, monitoring requirements, reporting obligations, and compliance mechanisms for all regulated air pollutants. (R. 6). BlueSky has continuously operated SkyLoop in compliance with the permit's requirements and has not once been cited by any regulatory authority for violations of its air-quality obligations. (R.6).

Vandalia Environmental Alliance ("VEA") is an environmental public interest organization based in Vandalia. (R.6). In March of 2025, the contamination testing done on the Mammoth Public Service District's ("PSD") water supply showed detectable levels of perfluorooctanoic acid ("PFOA") in the water supply. (R.7). Because of the coincidental timing of the PFOA contamination and SkyLoop's operations, the VEA alleges that SkyLoop emits trace amounts of perfluorooctanoic acid ("PFOA") through its exhaust stacks during normal operations. (R. 7). According to the VEA, these emissions enter the ambient air and may later settle onto nearby land and surface waters through atmospheric deposition. (R.7). The VEA does not allege that BlueSky disposes of PFOA through dumping, injection, spilling, leaking, or placement into or on land or water. (R.7, 8). Nor does the VEA allege that SkyLoop stores hazardous waste in landfills, surface impoundments, waste piles, or injection wells. (R. 7, 8). The complaint identifies no instances of soil contamination, groundwater discharge, or direct release of PFOA into water bodies attributable to land-based waste management practices at the facility. (R. 7, 8). The SkyLoop facility does not engage in traditional waste disposal activities regulated under the Resource Conservation and Recovery Act. (R. 4, 5, 6). Waste materials processed at SkyLoop are contained within enclosed systems and are converted into hydrogen fuel rather than discarded. (R. 5). Residual materials are handled in accordance with applicable federal and state regulations and are not released into the surrounding environment through land-based disposal methods. (R. 6). No evidence in the record indicates that BlueSky placed hazardous waste into or on land or water at or near the SkyLoop facility. (R. 4, 5, 6). VEA's allegations rest entirely on the theory that airborne emissions regulated under the Clean Air Act, later migrate through the environment. (R. 7, 8, 9).

This appeal arises from a preliminary injunction entered against BlueSky Hydrogen Enterprises, LLC, the operator of the SkyLoop waste-to-hydrogen facility, based on alleged emissions of perfluorooctanoic acid ("PFOA"). (R. 14). Appellant Vandalia Environmental Alliance ("VEA") brought a citizen suit under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972(a)(1)(B), alleging that BlueSky's air emissions constitute the "disposal" of hazardous waste and present an imminent and substantial endangerment to health or the environment. (R. 11). The district court concluded that VEA was likely to succeed on the merits of its RCRA claim and issued a preliminary injunction restricting SkyLoop's operations, despite BlueSky's compliance with a valid Clean Air Act Title V permit. (R. 15). BlueSky appeals, contending that controlling precedent forecloses RCRA liability for direct air emissions and that the district court erred in extending RCRA beyond its statutory and judicially recognized limits. (R. 15).

SUMMARY OF THE ARGUMENT

The district court correctly stayed its proceedings pending appeal under *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023), as adopted by the Twelfth Circuit in *City of Martinsville v. Express Scripts, Inc.*, 128 F.4th 265 (4th Cir. 2025). BlueSky's appeal challenges threshold issues—standing and irreparable harm—that determine whether this case may proceed in district court at all. Under the Griggs principle, when a notice of appeal is filed, the district court is divested of jurisdiction over aspects of the case involved in the appeal. *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 740 (2023). Because both standing and the proper application of the irreparable harm requirement will need to be addressed again at trial, allowing parallel proceedings would create the exact inefficiency and risk of inconsistent rulings that *Coinbase* was designed to prevent.

The VEA lacks standing to bring its public nuisance claim because it has not suffered a special injury different in kind from the general public. Regarding drinking water contamination, the VEA's injury is identical to that of every other Mammoth PSD customers, all facing the same contamination and health risks. As for farmland contamination, the VEA admits that "the resulting injury to farmland would likely be shared broadly across the agricultural community near SkyLoop." Further, the VEA's knowledge of the contamination and its behavioral responses—purchasing bottled water and ceasing food donations—do not transform a shared injury into a special one.

BlueSky's air emissions do not constitute "disposal" under RCRA, and therefore the VEA cannot establish likelihood of success on the merits. Under 42 U.S.C. § 6903(3) and controlling precedent from *Center for Community Action & Environmental Justice v. BNSF Railway Co.*, disposal requires that waste be placed into or on land or water first, and only then may it be emitted into air. *Ctr. for Cmty. Action & Envtl. Justice v. BNSF Ry. Co.*, 764 F.3d 1019 (9th Cir. 2014); 42 U.S.C. § 6903(3). Direct air emissions that later settle onto land do not satisfy this requirement. Courts have consistently refused to allow RCRA to regulate air emissions already governed by the Clean Air Act, as doing so would undermine the carefully constructed regulatory framework Congress established

Finally, the district court erred by allowing generalized public concerns to satisfy *Winter*'s requirement that the plaintiff itself demonstrate likely irreparable harm. *Winter v. Natural Resources Defense Council* makes clear that preliminary injunctions are extraordinary remedies requiring a showing that the plaintiff is likely to suffer irreparable harm—not speculative harm to third parties or the general public. 555 U.S. 7 (2008). VEA's members have

ceased drinking the allegedly contaminated water, undermining any claim of immediate, irreparable injury to themselves. While public interests are relevant to the balancing of equities and public interest prongs, they cannot substitute for the plaintiff's failure to demonstrate imminent, non-compensable injury.

ARGUMENT

I. The District Court correctly stayed its proceedings pending the appeal of the preliminary injunction under *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023).

A stay of a proceeding operates by "halting or postponing" an entire proceeding, or a specific portion of the proceeding, with the purpose of maintaining the status quo while an appeal is decided. *Nken v. Holder*, 556 U.S. 418 (2009). This judicial tool is vastly used within the court system to balance competing interests and ensure judicial economy, while protecting the interests of the court, counsel and litigants. *Landis v. N. Am. Co.*, 299 U.S. 248 (1936). Due to the vast discretion used by courts when granting stays, they have been mandated and codified in areas where litigating parties or judicial economy is most at risk.

The District Court properly applied *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023), using the Twelfth Circuit's adoption of the Fourth Circuit's holding in *City of Martinsville v. Express Scripts, Inc.*, 128 F.4th 265 (4th Cir. 2025), when it stayed all proceedings pending resolution of BlueSky's appeal from the preliminary injunction order. Under Coinbase, when a party appeals an interlocutory order addressing jurisdictional or other threshold issues, the district court is automatically divested of jurisdiction over those aspects of the case. 599 U.S. 736, 740 (2023). BlueSky's appeal challenges both the VEA's standing to bring its public nuisance claim and the district courts' application of the irreparable harm prong of the *Winter* test, which are

jurisdictional and threshold issues of the case, therefore the district court correctly concluded that a stay is mandatory under *Coinbase*.

A. Coinbase requires an automatic stay when an appeal involves jurisdictional or threshold issues that overlap with the merits.

In *Coinbase*, the Supreme Court held that "the Griggs principle … requires an automatic stay of district court proceedings that relate to any aspect of the case involved in the appeal," and this principle is increasingly more important when the issue involved in the appeal is "whether the litigation may go forward in the district court" at all. *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 741, 744 (2023). The court explained that "[a]n appeal, including an interlocutory appeal, divests the district court of its control over those aspects of the case involved in the appeal." Id. at 744 (quoting Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982)). Therefore when the issues presented in the appeal involve jurisdictional or threshold issues, "the entire case [becomes] involved in the appeal," requiring a stay on all district court proceedings. *Id*. at 740-41.

BlueSky's appeal challenges two threshold determinations made by the district court in granting the preliminary injunction. The first challenge involves whether the VEA has standing to bring their public nuisance claim based on their alleged special injury. The District Court initially recognized the VEA's special injury claim, but if this Court were to reverse the District Court's standing determination, the entire case would be dismissed, rendering any further trial proceedings a complete waste of resources. Conversely, if the District Court did not stay its proceedings and continued to trial while the appeal is pending, another standing determination would be made at trial that could be contradictory to the decision this Court makes on the appeal. Such parallel proceedings would create judicial inefficiency and risk inconsistent rulings, precisely what the *Coinbase* decision was designed to prevent.

The second challenge on appeal involves whether the irreparable harm prong of the *Winter* test can be satisfied. This issue goes directly to the determination of whether the VEA can obtain injunctive relief in this case. The District Court initially held that irreparable harm was established through the Mammoth residents generally, rather than through the VEA members. This issue will arise again at trial when permanent injunction is requested by the VEA. If this Court determines that irreparable harm must be shown through the plaintiff rather than through a third party, then the VEA will be unable to obtain injunctive relief. There is no reason for the district court to conduct a trial on claims that may not survive appellate review. Additionally, allowing the District Court to proceed with discovery and trial preparation on this issue while it is simultaneously being decided on appeal creates the exact scenario that *Coinbase* prohibits, duplicative proceedings addressing the same legal question with potential conflicting outcomes.

B. The VEA's arguments against a stay misread Coinbase and undermines the need for this automatic stay rule.

The VEA will argue that applying the *Coinbase* decision to all interlocutory appeals is an overly broad application of the courts holding. This is an incorrect interpretation of the case. While *Coinbase* arose in an arbitration context, the Supreme Court grounded its decision in fundamental principles of appellate jurisdiction, applicable to all interlocutory appeals. The key issue in the *Coinbase* case was whether the case may go forward in the district court at all. 599 U.S. 736, 741. The Supreme Court emphasized throughout its holding that the Griggs principle resolved this case in its entirety, not limiting its own application to cases of arbitration. *Id*. The Griggs principle established that "a federal district court and a federal court of appeals [must] not attempt to assert jurisdiction over a case simultaneously," therefore "the filing of a notice of appeal … confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*,

459 U.S. 56, 58 (1982). In short, the Griggs principle mandates stays on proceedings when the issues on appeal are involved in the proceedings. *Id*.

The Coinbase decision acknowledged this principle and applied it to stays over district court proceedings when the issue in the interlocutory appeal addresses whether the case should be heard by the district court at all. Furthermore, this Court in *City of Martinsville* has already adopted the reasoning of *Coinbase* outside of the arbitration context. In *City of Martinsville*, this Court stated that "[t]wo courts at once is one court too many," emphasizing "*Coinbase* confirmed that Griggs was not a makeshift guideline with limited sweep but a general principle" which applies to appeals "until Congress tells us otherwise." 128 F.4th 265, 272 (4th Cir. 2025).

The VEA contends that applying *Coinbase* to all preliminary injunction appeals would "upend federal litigation as we know it" by allowing defendants to stop trial proceedings in their tracks merely by appealing preliminary injunction rulings, creating a procedural "trap". This argument misconstrues both Coinbase and the nature of BlueSky's appeal. *Coinbase* does not permit defendants to delay proceedings by simply filing an appeal, the stay on proceedings is only automatic when the appeal involves issues that determine if the case will even be heard in the district court. 599 U.S. 736, 741 (2023). Allowing the issues in the interlocutory appeal to be decided before the district court proceedings continue, allows cases to proceed, or be dismissed, with certainty rather than risk wasted resources or duplicative proceedings. Therefore, applying *Coinbase* to preliminary injunction appeals will not create an automatic trap, but instead protect judicial efficiency and judicial resources.

II. The VEA does not have a special injury sufficient to give it standing to bring its public nuisance claim for BlueSky's PFOA air emission.

A public nuisance is defined as an "unreasonable interference with a right common to the general public." Restatement 2d of Torts, § 821B(1). There are many circumstances in which an interference with a public right is considered unreasonable, including conduct that involves public health, public safety, conduct proscribed by a statute or regulation, or conduct that has produced permanent or long-lasting effects in which the actor should have known it would have had a significant effect on the public. *Id*. A private party may have standing to bring a public nuisance claim only if it has suffered a special injury that is different in kind and degree from the injury suffered by the general public. *Ariz. Copper Co. v. Gillespie*, 230 U.S. 46, 57 (1913); Restatement 2d of Torts, § 821C.

The VEA lacks standing to bring a public nuisance claim against BlueSky because it has not demonstrated a special injury as required under the Restatement 2d of Torts. The VEA's alleged special injury, through the contamination of its farm and crops by BlueSky's PFOA air emissions and contamination of the PSD's water supply, is not distinct in kind from the harm suffered by other farms and the general public. The VEA itself admits that "the resulting injury to farmland would likely be shared broadly across the agricultural community near SkyLoop." Therefore the VEA's injuries are shared by others exercising the same right, to use their land and consume non-contaminated water, thus, not a special injury sufficient to give them standing to bring a public nuisance claim.

A. The VEA has failed to demonstrate a special injury different in kind from other PSD customers

To determine whether a plaintiff has suffered a special injury different in kind from the general public, courts must first identify the relevant comparative population. The Restatement

makes it clear that this population consists of "other persons exercising the same public right." Restatement 2d of Torts, § 821C. The first base for special injury that the VEA claims is with respect to the relevant public right to drink water from the Mammoth PSD without PFOA contamination. The relevant comparative population therefore consists of all residents who receive their drinking water from the Mammoth PSD.

The VEA's injury arising from the contaminated drinking water is identical in kind to the injury suffered by every other resident served by the PSD. The VEA has not alleged any fact showing that its members' drinking water is more contaminated, poses greater health risks or is qualitatively different from the water consumed by the other Mammoth residents. In fact all PSD customers face the same contamination and the same health risks. Therefore, as the district court recognized, the VEA members are in the same position as all other PSD customers, making their injury identical in kind to that suffered by all other PSD customers exercising the same public right, thus it cannot serve as the basis for a special injury conferring standing to bring a public nuisance claim.

B. The VEA has failed to demonstrate a special injury different in kind from other farms in the Mammoth area.

The VEA's secondary basis for establishing standing is the contamination of its farm from PFOA air deposition. The VEA claims this to be an injury unique to their farm meeting the "special injury" requirement, but this claimed injury must "be different in kind, and not merely degree, from that sustained by the community," which it is not. *Bowe v. Scott*, 233 U.S. 658, 661 (1914). The relevant public right addressed through this injury is the right to use one's land for agricultural purposes without interference from neighboring property uses. The relevant comparative population therefore consists of other landowners located near SkyLoop who are exercising the same right.

The VEA's farm is located 1.5 miles north of the SkyLoop plant with many other local farms located "between VEA Sustainable Farms and SkyLoop. These other farms "grow a variety of food and also raise livestock." Since the prevailing winds blow PFOA emissions "in a northerly direction" all of the farms, exercising the same public right as the VEA, located between SkyLoop and the VEA's property would be affected by the same air deposition of PFOAs. In fact the VEA admits that its farmland injury is not unique, stating that "if PFOA is being deposited through air emissions, the resulting injury to farmland would likely be shared broadly across the agricultural community near SkyLoop," including "numerous other farms that grow food for local and regional consumption."

The nature of the injury to the plaintiff must be "an injury peculiar to himself, as distinguished from the great body of his fellow citizens." *Tyler v. Judges of Court of Registration*, 179 U.S. 405, 406 (1900). The nature of the VEA's injury here is the soil contamination from PFOA air deposition affecting the safety of agricultural products, which is identical across all effected farms. The VEA has not alleged any facts showing that its farm has suffered a qualitatively differed injury from the other farms. It has failed to show that its soil is more contaminated or that it faces any harm that the other farms do not face.

The only difference between its farm and surrounding farms, that the VEA has pointed out, is that it uses its farm for educational purposes and donates the food it produces to the community. This simply points out the difference in how the VEA uses its property, not a difference in the kind of injury the property has suffered from the PFOA contamination. The Restatement 2d specifically states that "one must have suffered harm of a kind different from that suffered by the other members of the public." Restatement 2d § 821C. Therefore the question is not whether the injury affected the plaintiff's use of their property differently than it

did the general public, but whether the injury itself was different from the injury suffered from the rest of the public. Here the injury suffered by the general public is the soil contamination, the VEA suffered the exact same injury regardless of how that injury effected the use of their property. Since their injury is not different in kind from the other farm owners exercising the same public right, the VEA does not have a special injury to qualify standing in a public nuisance claim.

C. The VEA's knowledge of the contamination does not create a different kind of injury.

The VEA might argue that its injury is different from the other PSD customers and the other farm owners because of its awareness of the PFOA contamination and the protective measures it has taken. VEA members, once aware of the contamination, have "ceased drinking the public water and have resorted to buying bottled water." Additionally the VEA "has ceased providing food to the community food banks and soup kitchens." But these behavioral responses do not change the kind of injury the VEA has suffered. As stated above the VEA has suffered the same injury as every PSD customer and every farm owner in the vicinity of SkyLoop. The fact that the VEA learned about the contamination and responded by changing its behavior does not make the underlying injury different in kind. Other residents and farms could take the same precautions that the VEA has taken if they become aware of the contamination. The ability for the VEA to respond to the injury by mitigating their exposure does not transform a shared injury into a special one

If the VEA attempts to claim another "special injury" from the costs of purchasing bottled water or their lost goodwill from ceasing food donations, they will fail to meet the threshold set by the Restatement. These claims are economic consequences of the contamination, not a different kind of injury. The actual injury remains the same, the PFOA contamination either

in water or through air emission deposition. These economic consequences are derivative harms stemming from the same underlying contamination that affects the general population, not special injuries different in kind from those suffered by the general population. An injury does not become special merely because it has economic ramifications for a particular plaintiff. Therefore the VEA cannot create standing on these types of secondary injuries to support a public nuisance claim.

III. Treating Regulated Air Emissions As "Disposal" Impermissibly Expands RCRA Beyond Its Text, And the VEA Cannot Show Likelihood Of Success.

A. Air Emissions, Without Land-Based Placement, Are Not "Disposal" Under RCRA.

Courts interpreting RCRA have consistently held that "disposal" requires the placement of waste into or on land or water. *Ctr. for Cmty. Action & Envtl. Justice v. BNSF Ry. Co.*, 764, 1024 F.3d 1019 (9th Cir. 2014). Oppositely, waste emitted into the air, even if it later settles onto land, does not satisfy that requirement. *Id*. Under RCRA, "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. 42 U.S.C. § 6903(3). In *Center for Community Action & Environmental Justice*, plaintiffs alleged that diesel particulates emitted into the air, later deposited onto nearby land qualified as disposal. *Ctr. for Cmty. Action & Envtl. Justice v. BNSF Ry. Co.*, 764 F.3d 1019 (9th Cir. 2014). The court rejected this theory, holding that "disposal" under 42 U.S.C. § 6903(3) requires that the waste must first be placed into or on land or water, and only then may it be emitted into the air. *Id*. at 1024. The court further emphasized that reading "disposal" to include

direct air emissions would improperly transform RCRA's distinct statutory language into an air-pollution statute, an outcome Congress never intended. *Id*. at 1023–25.

Similarly, here, the record shows that SkyLoop's waste-to-hydrogen process releases trace amounts of PFOA through exhaust stacks into the air, pursuant to a valid Title V Clean Air Act permit. There is no allegation that BlueSky injected, dumped, spilled, or otherwise placed PFOA into soil, groundwater, surface water, or land-based containment systems. The VEA instead argues that PFOA particles emitted into the air were later deposited onto surrounding land and waterways. That theory mirrors the plaintiffs' argument in *Center for Community Action & Environmental Justice*, where diesel particulate matter was emitted into the air from diesel exhausts and later settled onto nearby properties. *Ctr. for Cmty. Action & Envtl. Justice v. BNSF Ry. Co.*, 764 F.3d 1019 (9th Cir. 2014). The Ninth Circuit rejected that claim, holding that RCRA "disposal" requires that waste be placed into or on land or water in the first instance, and that emission into the air alone does not constitute disposal. *Id*. BlueSky's alleged conduct is materially indistinguishable.

B. Courts Reject Using RCRA to Regulate Air Emissions Already Governed by the Clean Air Act.

In *No Spray Coalition, Inc. v. City of New York*, the court held that pesticide spraying into the air, even though chemicals later settled onto land did not constitute disposal under RCRA. *No Spray Coal., Inc. v. City of N.Y.*, 252 F.3d 148 (2d Cir. 2001). Plaintiffs challenged New York City's mosquito-control pesticide spraying program during outbreaks of West Nile virus. *Id*. at 149. Residents and environmental groups filed suit in federal court alleging that the city's aerial and ground spraying of pesticides constituted unlawful disposal of solid waste and presented environmental and health risks under environmental statutes, specifically RCRA. *Id*. The court

reasoned that RCRA regulates waste management practices, not airborne emissions that are addressed elsewhere in the federal statutory scheme. *Id*. at 150.

What *No Spray Coalition* ultimately recognized, and what matters here, is that courts should respect the regulatory choices Congress actually made. New York City was not dumping waste; it was carrying out a public health program through pesticide spraying governed by a specific statutory scheme. The Second Circuit refused to let plaintiffs relabel that conduct as RCRA "disposal" simply because chemicals entered the environment. That same principle applies with even greater force to BlueSky. SkyLoop is not discarding waste or abandoning hazardous materials; it is operating a permitted industrial facility under the Clean Air Act, subject to continuous monitoring, reporting, and federal oversight. BlueSky obtained a Title V permit and complied with its terms. Treating those permitted emissions as unlawful "disposal" would punish compliance, undermine regulatory certainty, and collapse the careful line Congress drew between waste management and air-quality regulation. Just as *No Spray* declined to turn one environmental statute into a weapon against conduct governed by another, this Court should not allow RCRA to override the Clean Air Act's permitting regime here.

Similarly, in *California River Watch v. City of Vacaville*, the Ninth Circuit reaffirmed that RCRA is directed at waste introduced into the environment through land-based disposal practices, not at releases that occur through regulatory pathways governed by other federal environmental statutes. *Cal. River Watch v. City of Vacaville*, 39 F.4th 624, 634 (9th Cir. 2022). There, environmental groups brought a RCRA imminent-and-substantial-endangerment claim alleging that the City's wastewater discharges caused nitrate contamination in groundwater, even though those discharges were fully regulated under the Clean Water Act and authorized by a valid NPDES permit. *Id*. at 624. The court rejected the attempt to recharacterize lawful,

permitted discharges as "disposal" under RCRA, holding that RCRA cannot be used to override or duplicate regulatory regimes Congress deliberately established elsewhere. *Id*. at 634. Emphasizing that RCRA's citizen-suit provision is not a backdoor enforcement mechanism, the court explained that allowing RCRA liability for conduct already regulated under the Clean Water Act would undermine the permitting scheme Congress carefully constructed, and that lawful releases authorized by another statute do not become "disposal" under RCRA merely because they may contribute to environmental contamination. *Id*.

The reasoning in *River Watch* directly aligns with BlueSky's operations at the SkyLoop facility. Just as the Ninth Circuit held that RCRA cannot be used to second-guess or duplicate discharges already regulated under the Clean Water Act, SkyLoop's air emissions are fully authorized under its Title V Clean Air Act permit and subject to extensive emissions controls. These lawful, permitted releases, similar to the City of Vacaville's wastewater discharges, cannot be recharacterized as "disposal" under RCRA simply because they contain trace contaminants such as PFOA. Allowing a RCRA citizen suit to impose additional liability would undermine the Clean Air Act's carefully constructed regulatory framework and effectively turn RCRA into a backdoor enforcement mechanism, contrary to Congressional intent. BlueSky, like the Vacaville city government, is operating within a robust, lawful regulatory program designed to balance environmental protection, public health, and economic development, and its permitted operations should not be treated as actionable under RCRA.

IV. Generalized Public Concerns Cannot Replace *Winter*'s Requirement of Likely Irreparable Harm to the Plaintiff

A. VEA Cannot Satisfy *Winter* by Invoking Generalized Environmental Risk Untethered to Any Imminent Injury to Its Members

In *Winter v. Natural Resources Defense Council*, the Supreme Court addressed the proper standard for issuing a preliminary injunction in environmental cases. *Winter v. NRDC, Inc.*, 555 U.S. 7, 129 S. Ct. 365 (2008). The dispute arose when environmental organizations challenged the U.S. Navy's use of mid-frequency active sonar during training exercises off the coast of Southern California, alleging that the sonar harmed marine mammals in violation of the National Environmental Policy Act (NEPA). *Id*. at 7. The district court issued a preliminary injunction imposing significant restrictions on the Navy's training activities, finding that the plaintiffs had demonstrated a "possibility" of irreparable harm to marine life. *Id*. The Supreme Court reversed, holding that a plaintiff seeking a preliminary injunction must satisfy a four-factor test: (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm absent injunctive 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. The Court rejected the Ninth Circuit's more lenient "possibility of irreparable harm" standard, emphasizing that irreparable harm must be likely, not speculative. *Id*. at 22

Here, the district court erred by applying *Winter*'s irreparable-harm requirement into a generalized public-interest inquiry untethered from any concrete injury to the plaintiff. *Winter* makes clear that a preliminary injunction is an "extraordinary remedy" that requires a showing that the plaintiff itself is likely to suffer irreparable harm absent relief. *Id*. at 22. While public interests are relevant at later stages of the analysis, courts consistently hold that speculative or abstract harm to the public cannot substitute for the plaintiff's failure to demonstrate imminent,

non-compensable injury. *Id*. Here, VEA's members have acknowledged that they no longer drink the allegedly affected water, undermining any claim of immediate, irreparable injury. Allowing generalized concerns about environmental risk to satisfy *Winter*'s irreparable-harm prong would effectively eliminate that requirement in environmental cases and convert preliminary injunctions into regulatory tools untethered from the required injury. The district court's approach thus improperly shifted the burden away from VEA and justified extraordinary relief based on speculative public harm rather than a legally sufficient showing of irreparable injury. Critically, the Court also underscored that courts must meaningfully weigh the public interest when considering injunctive relief. In *Winter*, that interest included national security and military readiness, which the Court found outweighed the asserted environmental harms, particularly where the evidence of harm was uncertain and mitigation measures were already in place. *Id*. at 24–26. The decision clarified that environmental concerns, while important, do not automatically justify injunctive relief and must be balanced against competing public interests under a rigorous standard.

CONCLUSION

The district court's order should be reversed because it expands RCRA beyond its intended purpose and disrupts the balance Congress placed among federal environmental statutes. BlueSky operates under a comprehensive regulatory framework that specifically governs air emissions and subjects its operations to continuous oversight, monitoring, and enforcement. Treating those lawful, permitted activities as "disposal" under RCRA would create inconsistent regulation through citizen suits rather than expert agency review. The preliminary injunction also cannot stand because it rests on generalized concerns about environmental risk rather than a concrete showing of imminent, irreparable harm to the plaintiff. Extraordinary relief

requires more than disagreement with regulatory outcomes or speculative fears of future injury. By relying on abstract public interests separate from the plaintiff's specific harm, the district court inevitably lowered the governing standard and transformed injunctive relief into a substitute for policymaking. In order to preserve the integrity of federal environmental law we must respect statutory boundaries, regulatory expertise, and lawful compliance. BlueSky acted within the limits of its permits and because the plaintiff failed to meet the demanding requirements for injunctive relief, the injunction should be vacated and the case dismissed.

Certificate of Service

Pursuant to Official Rule IV, Team Members representing [Party Name] 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 1, 2023.

Respectfully submitted,

Team No. 17