IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

STEPHEN JONES, *et al.*, Plaintiffs, v. PERDUE FARMS INC., *et al.*, Defendants.	C.A. No. 1: 25-cv-02445

REPLY MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO RECONSIDER

Plaintiffs Stephen Jones and Richard Renshaw ("Plaintiffs") submit this reply to Defendants Perdue Farms Inc., Perdue Agribusiness LLC, and Perdue Foods LLC's ("Defendants") Opposition,[1] in further support of Plaintiffs' Motion to Reconsider, ECF 38.

INTRODUCTION

Defendants' Opposition attempts to cast Plaintiffs' Motion to Reconsider as an improper and unbounded effort to relitigate prior arguments or to raise issues that could have been presented earlier. It is neither. Plaintiffs seek reconsideration of a discrete legal issue concerning the standard applied to Plaintiffs' imminent and substantial endangerment claim under the Resource Conservation and Recovery Act ("RCRA"), which authorizes relief where conditions "may present an imminent and substantial endangerment to health or the environment." 42 U.S.C. § 6972(a)(1)(B).

Defendants' Opposition largely defends the Court's dismissal of Count IV by emphasizing the absence of allegations that Plaintiffs are presently drinking contaminated water or otherwise currently exposed to contamination through individualized use of affected environmental

[1] References to Defendants' Opposition to Plaintiffs' Motion to Reconsider, ECF 41, are abbreviated as "Defs.' Opp'n."

resources. But that framing reflects the same legal error that Plaintiffs' Motion seeks to correct. RCRA adopts a forward-looking, risk-based standard that reaches conditions that "may present" an endangerment, even where the full impact of that risk has not yet been realized. *See Meghrig v. KFC W., Inc.*, 516 U.S. 479, 486 (1996).

Defendants further contend that Plaintiffs failed to raise these arguments in prior briefing and that Plaintiffs improperly conflate Article III standing with the elements of an imminent and substantial endangerment claim. As explained below, Plaintiffs did raise the substance of these issues, and, in any event, could not have anticipated the manner in which the Court's Memorandum Opinion ("Mem. Op."), ECF 34, relied on its standing analysis to limit the scope of the imminent and substantial endangerment claim. More fundamentally, Defendants' arguments underscore the central issue presented here, whether RCRA requires allegations of present exposure or individualized use of contaminated environmental resources by the Plaintiffs. It does not.

Because the Court's dismissal of Count IV erroneously rested on a more demanding standard than the statute and governing case law permit, reconsideration is warranted. Rule 54(b) allows the Court to revisit interlocutory rulings "at any time" prior to final judgment, and doing so here will clarify the governing standard and avoid unnecessary future motion practice. Plaintiffs therefore respectfully request that the Court reconsider its dismissal of Count IV.

ARGUMENT

I. LEGAL STANDARD GOVERNING RECONSIDERATION UNDER RULE 54(b)

A. Rule 54(b) Affords the Court Broad Discretion to Reconsider Interlocutory Orders

The parties agree that Plaintiffs' Motion to Reconsider ("Plaintiffs' Motion") is brought under Federal Rule of Civil Procedure 54(b), which provides that any order adjudicating fewer than all claims "may be revised at any time" prior to final judgment.

Although courts in this District may "look to the standards used to adjudicate Rule 59(e) and 60(b) motions for guidance when considering Rule 54(b) motions," those standards do not control. *Jarrett v. Home Depot U.S.A., Inc.*, No. SAG-21-1514, 2021 WL 4264821, at *1 (D. Md. Sept. 20, 2021); *Durr Sys., Inc. v. EFC Sys., Inc.*, No. SAG-18-02597, 2023 WL 3866413, at *1 (D. Md. June 6, 2023). Rather, the Fourth Circuit has emphasized that Rule 54(b) motions "are not subject to the strict standards applicable to motions for reconsideration of a final judgment." *Am. Canoe Ass'n v. Murphy Farms, Inc.*, 326 F.3d 505, 514 (4th Cir. 2003).

Consistent with that principle, courts may look to Rule 59(e) and 60(b) for guidance in identifying circumstances in which reconsideration is appropriate, including where necessary "to correct a clear error of law or prevent manifest injustice." *Jarrett*, 2021 WL 4264821, at *2 (quoting *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993)) (granting reconsideration based, in part, on legal errors). But the use of those standards as "guidance" does not import their "strict standards" into the Rule 54(b) context. *See Am. Canoe Ass'n*, 326 F.3d at 514. Defendants rely heavily on the standards applicable to Rules 59(e) and 60(b), arguing that reconsideration is a "high bar" and appropriate only in limited circumstances. Defs.' Opp'n at 3. But those standards are used only for guidance and do not displace the broader discretion afforded under Rule 54(b).

Instead, the decision to reconsider an interlocutory order remains committed to the Court's "broad discretion." *Id.* at 515; *Durr Sys.*, 2023 WL 3866413, at *1. That discretion reflects the Court's ongoing authority to revisit earlier rulings "at any time" prior to final judgment and its responsibility to ensure that its rulings are correct. *See Am. Canoe Ass'n*, 326 F.3d at 514–15. As the Fourth Circuit explained, the doctrine of the "[l]aw of the case . . . does not and cannot limit the power of a court to reconsider an earlier ruling. The ultimate responsibility of the federal courts, at all levels, is to reach the correct judgment under law." *Id.* at 515.

Here, Plaintiffs seek reconsideration to correct an error of law in the Court's dismissal of Count IV. That request falls squarely within the Court's authority under Rule 54(b).

B. Plaintiffs' Motion Properly Seeks Reconsideration of a Discrete Legal Issue Consistent With the Purpose of Rule 54(b)

Defendants attempt to foreclose consideration of the merits of Plaintiffs' Motion by characterizing it alternatively as an improper effort to relitigate issues or to raise arguments that could have been presented earlier. *See* Defs.' Opp'n at 1, 5, 7, 9, 12–13. Although courts generally disfavor motions that simply rehash prior arguments or present new theories that could have been raised earlier, Plaintiffs do neither. Plaintiffs' Motion focuses on a narrow portion of the Court's ruling that, if left uncorrected, is likely to give rise to further motion practice and unnecessary delay, including in connection with any amended complaint. Addressing that issue now promotes efficiency and is consistent with Rule 54(b)'s purpose of allowing courts to revisit interlocutory rulings prior to final judgment.

Defendants' suggestion that Plaintiffs failed to raise particular issues in their opposition to the Motion to Dismiss, Strike, or Stay is incorrect. Defendants' omnibus Motion to Dismiss, Strike, or Stay raised a multitude of distinct arguments, and Plaintiffs responded to each. Plaintiffs' memorandum in opposition argued that the relevant substance of their imminent and substantial

endangerment claim, including the harms to Plaintiffs, their community, and the surrounding environment, was sufficient to state a claim. *See* Pls.' Mem. in Opp'n to Mot. to Dismiss, Strike, or Stay, at 23 (ECF 23-1). In any event, Plaintiffs could not have reasonably anticipated that the Court would rely on its standing analysis to limit the scope of the imminent and substantial endangerment claim, a position not advanced in Defendants' Motion. *See* Defs.' Mem. in Supp. of Mot. to Dismiss, Strike, or Stay at 22–23 (ECF 19-1). Plaintiffs' Motion to Reconsider therefore seeks reconsideration of the legal standard applied to Count IV, an issue that is appropriately addressed under Rule 54(b).

II. The Court Applied an Incorrect Legal Standard to Plaintiffs' Imminent and Substantial Endangerment Claim

A. The Court Required Allegations of Present Exposure

Plaintiffs seek reconsideration because the Court's dismissal of Count IV rests on an incorrect legal standard governing claims for imminent and substantial endangerment under RCRA. The statute imposes a forward-looking, risk-based standard that does not require plaintiffs to plead present exposure or that they are currently being harmed through individualized use of contaminated environmental resources by the named plaintiffs. *See* 42 U.S.C. § 6972(a)(1)(B). By requiring allegations of that nature, the Court applied a more stringent standard than the statute and governing case law permit.

RCRA authorizes suit where the handling or disposal of waste "may present an imminent and substantial endangerment to health or the environment." *Id.* That expansive language reaches situations in which "a threat . . . is present now, although the impact of the threat may not be felt until later." *Meghrig v. KFC W., Inc.*, 516 U.S. 479, 486 (1996) (quoting *Price v. United States Navy*, 39 F.3d 1011, 1019 (1994)) (emphasis removed). In *Meghrig*, the Supreme Court rejected a RCRA claim seeking recovery of cleanup costs for contamination that had already been remediated

years earlier and was no longer present. *Id.* at 485–86. That holding reflects that RCRA addresses conditions that present a current threat, not past remediated contamination that no longer poses any risk. *See id.* At the same time, the existence of a present threat does not require that exposure or harm is currently occurring. Rather, the citizen suit provision of RCRA is also meant to "obviate[] the risk of future 'imminent' harms," not merely remedy current exposure. *Id.* (citing 42 U.S.C. § 6902(b) for the proposition that the purpose of RCRA is "to minimize the present and future threat to human health and the environment.")

The Court's analysis, however, appears to have required something more. In dismissing Count IV, the Court focused on the absence of allegations that Plaintiffs are presently drinking contaminated water. Mem. Op. at 14. That requirement effectively transforms RCRA's risk-based standard into one that demands present exposure. As explained above and in Plaintiffs' memorandum in support of the Motion to Reconsider, neither the statute nor the governing case law imposes such a requirement. To the contrary, Plaintiffs alleged facts sufficient to state a claim for relief under § 6972(a)(1)(B) describing the present risk of harm to human health that Defendants are causing through their ongoing release of harmful and persistent substances leading to widespread contamination of the area's groundwater, surface water, and soil, including the contamination of the drinking water sources of hundreds of households in the area. *See* First Am. Compl. ¶¶ 18–19, 21, 22–24, 57–58, 93, 62–73, 74–85, 110.

Defendants repeatedly mischaracterize Plaintiffs' argument as relying on "contamination alone." *See* Defs.' Opp'n at 8, 9–10, 15. But Plaintiffs' allegations go far beyond the mere presence of contaminants. The Complaint alleges that Defendants' disposal of solid wastes containing PFAS has resulted in contamination of groundwater, surface water, soil, and particulates in the air affecting the surrounding residential community, and identifies multiple concrete and ongoing

pathways of exposure, including through drinking water and other routine interactions with contaminated environmental media. *See e.g.*, First Am. Compl. ¶¶ 2–6, 18–24, 39–59, 85, 93, 110. These allegations are sufficient to plausibly allege that Defendants' conduct "may present an imminent and substantial endangerment" within the meaning of RCRA.

B. Distinction Between Article III Standing and the RCRA Cause of Action

Defendants argue that Plaintiffs conflate Article III standing with the elements of a RCRA imminent and substantial endangerment claim. Defs.' Opp'n at 6. Plaintiffs do not. Rather, Plaintiffs' Motion challenges the legal standard applied to the imminent and substantial endangerment claim. Defendants' argument may stem, in part, from the Court's treatment of these issues in its Memorandum Opinion, *see* Mem. Op. at 14, but Article III standing and the elements of a RCRA imminent and substantial endangerment claim are distinct inquiries.

Article III standing concerns whether Plaintiffs have alleged a concrete and particularized injury sufficient to invoke the Court's jurisdiction. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 559–61 (1992). The elements of a RCRA imminent and substantial endangerment claim, by contrast, are defined by statute and turn on whether conditions may present a risk to health or the environment. 42 U.S.C. § 6972(a)(1)(B). Those are separate and distinct inquiries.

Plaintiffs do not seek reconsideration of the Court's standing analysis. Rather, Plaintiffs challenge the unsupported use of that analysis to limit the scope of their imminent and substantial endangerment claim. *See* Mem. Op. at 14; Defs.' Opp'n at 6. A determination that Plaintiffs did not adequately allege a particular type of injury for purposes of Article III standing does not alter the substantive statutory standard governing an imminent and substantial endangerment claim, nor does it limit the types of harm that may be alleged under § 6972(a)(1)(B), which broadly authorizes

relief where conditions "may present an imminent and substantial endangerment to health or the environment."

Because the Court treated the absence of allegations of present personal exposure or individualized use of contaminated environmental resources by the Plaintiffs as dispositive of Count IV, it applied a more demanding standard than the statute requires. Under the correct standard, Plaintiffs' allegations are sufficient to state a claim for imminent and substantial endangerment, and reconsideration is warranted.

III. Defendants' Effort to Distinguish Relevant Authority Does Not Undermine Plaintiffs' Showing of Error

Defendants devote substantial attention to attempting to distinguish the authorities cited by Plaintiffs. *See* Defs.' Opp'n at 7–9, 13–15. That effort does not undermine Plaintiffs' showing that the Court applied an incorrect legal standard. As this Court has recognized, "[c]ourts regularly analogize from one context to reach a logical conclusion about the appropriate extension of the law in another context, because contested cases rarely present precisely the same facts and legal posture as a case that was previously decided." *Jarrett v. Home Depot U.S.A., Inc.*, No. SAG-21-1514, 2021 WL 4264821, at *2 (D. Md. Sept. 20, 2021). The relevant question is not whether prior cases arise in identical procedural or statutory contexts, but whether they interpret the same operative language and legal standard. Here, the authorities cited by Plaintiffs do just that.

Defendants' treatment of *Trinity Am. Corp. v. U.S. EPA*, 150 F.3d 389, 399–400 (4th Cir. 1998), is illustrative. They attempt to dismiss *Trinity* on the ground that it arose in the context of EPA emergency authority under the Safe Drinking Water Act ("SDWA"). Defs.' Opp'n at 13–15. But Plaintiffs' reliance on *Trinity* does not turn on the level of deference afforded to agency action. Rather, it turns on the court's textual analysis of the statutory phrase "may present an imminent and substantial endangerment," which is materially identical to the language at issue here. In

Trinity, the Fourth Circuit made clear that the absence of evidence that individuals were "actually drinking contaminated water" does not preclude finding a present risk of imminent and substantial endangerment, and that the language of the statute requires only a present risk of harm. *Trinity*, 150 F.3d at 399–400. The Fourth Circuit distinguished its unpublished decision in the RCRA case of *Leister v. Black & Decker, Inc.*, 117 F.3d 1414 (4th Cir. 1997) (unpublished table decision), based on the facts of the case, not based on the court's deference to agency action under the SDWA or any differences in the language of the respective statutes. *Trinity*, 150 F.3d at 400. Therefore, the Fourth Circuit's reasoning directly supports Plaintiffs' position that RCRA does not require allegations of present exposure or current use of contaminated environmental resources by the Plaintiffs.

Defendants' remaining distinctions fare no better. Their arguments focus on factual differences or procedural posture, which do not alter the governing legal standard. *See* Defs.' Opp'n at 7–9. Defendants' attempts to distinguish those cases[2] rest in part on characterizations of Plaintiffs' claims as relying on "contamination alone" or as seeking to assert claims beyond the scope of Plaintiffs' standing. *See id.* But, as explained above, Plaintiffs' claim is based on allegations of ongoing contamination, migration, and pathways of exposure that may present an imminent and substantial endangerment. Plaintiffs cited those cases to illustrate the scope and purpose of RCRA's citizen suit provision, including its authorization of broad relief addressing risks to health and the environment, similar to the relief available to the EPA under 42 U.S.C. § 6973. Mem. in Supp. of Pls.' Mot. to Recons. at 2–5 (ECF 38-1).

[2] Plaintiffs here refer to Defendants' discussion of the following cases: *Middlesex Cnty. Bd. of Chosen Freeholders v. State of N.J., Dep't of Env't Prot.*, 645 F. Supp. 715 (D.N.J. 1986); *Lincoln Props., Ltd. v. Higgins*, No. CIV. S-91-760DFL/GGH, 1993 WL 217429 (E.D. Cal. Jan. 21, 1993); *Maine People's All. And Nat. Res. Def. Council v. Mallinckrodt, Inc.*, 471 F.3d 277 (1st Cir. 2006); *Interfaith Cmty. Org. v. Honeywell Int'l, Inc.*, 399 F.3d 248 (3d Cir. 2005); *Foster v. United States*, 922 F. Supp. 642 (D.D.C. 1996). *See* Defs.' Opp'n at 7–9.

Because the authorities cited by Plaintiffs confirm that RCRA adopts a forward-looking, risk-based standard that does not require Plaintiffs to plead present exposure or individualized use of contaminated environmental resources by the Plaintiffs, Defendants' attempts to distinguish those cases do not cure the legal error in the Court's dismissal of Count IV.

CONCLUSION

WHEREFORE, Plaintiffs respectfully request this Court reconsider its dismissal of Count IV of the Complaint and grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

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Dated: February 19, 2026

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of February, 2026, a copy of the foregoing document was filed with the Clerk of the U.S. District Court for the District of Maryland and served on all counsel of record via the Court's electronic case filing system.

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