

STATE OF LOUISIANA
OFFICE OF CONSERVATION
BATON ROUGE, LOUISIANA

January 28, 2020

CONSERVATION ORDER NO. ENV 2019-04 CFB

Order approving the construction and operation of a commercial exploration and production waste (E&P Waste) fluids injection well disposal facility in Red River Parish, Site Code 4102, by Pinnergy, LTD. (Pinnergy) Operator Code P308, of Austin, Texas.

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and as implemented in rules and regulations promulgated by the Commissioner of Conservation, and after a public hearing held under Docket No. ENV 2019-03 in Coushatta, Louisiana on September 26, 2019, following legal publication of notice, the following order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to carry out the provision of the laws of this state.

THE COMMISSIONER OF CONSERVATION FINDS AS FOLLOWS:

1) That notice of intent to file an application for a permit to operate a commercial exploration and production waste (E&P Waste) fluids injection well disposal facility in Red River Parish was given by Pinnergy of Austin, Texas in accordance with the provisions of LRS 30:4(l) and LAC 43:XIX.Subpart 1.Chapter 5, by publication in The Advocate, the official journal of the State of Louisiana, The Coushatta Citizen, the official journal of Red River Parish, and The Times a general circulatory in Red River Parish.

2) That Pinnergy, after thirty (30) day notice as required by LRS 30:4(l) and LAC 43:XIX.Subpart 1.Chapter 5, applied to the Office of Conservation for approval to construct and operate a commercial E&P Waste fluids injection well disposal facility.

3) That the Pinnergy facility in question is to be located in Section 22, Township 14 North, Range 9 West, in Red River Parish, Louisiana.

4) That the application submitted to the Office of Conservation by Pinnergy was administratively complete as required by LAC 43:XIX.Subpart 1.Chapter 5, as amended.

5) That a public hearing was held in Coushatta, Louisiana on September 26, 2019, after public notice had been given by the Office of Conservation in The Louisiana Register on August 20, 2019 and in The Advocate on August 26, 2019, and by Pinnergy in the Coushatta Citizen and The Times in accordance with the provisions of LRS 30:4(l) and LAC 43:XIX.Subpart 1.Chapter 5.

6) That the facility is to be identified as Site Code 4102.

7) That the Pinnergy E&P Waste fluids injection well disposal facility, as approved, will consist of an E&P Waste truck unloading area, above ground storage tanks, and truck wash area utilized collectively for the receipt, cleaning, and temporary storage of E&P Waste which is to then be disposed utilizing an injection well(s).

8) That the Pinnergy E&P Waste fluids injection well disposal facility, as proposed and pursuant to the permit application and this Order, will be constructed, completed, equipped, operated and maintained in accordance with the provisions of

LAC 43:XIX.Subpart 1, as amended, particularly LAC 43:XIX.Subpart 1.Chapter 5, in a manner that will prevent endangerment of underground sources of drinking water or damage to sources of oil and gas and will confine injected E&P Waste fluids to an approved subsurface injection interval.

9) That the proposed disposal facility will be a "Type B" facility as defined under LAC 43:XIX.501. The Pinnergy facility, as proposed and approved, will dispose of fluid Waste Types 01, 04, 08, 09, 10, 11, 14, 15, 16, and 99.

10) That Pinnergy will keep such records and make such reports as required by LAC 43:XIX.Subpart 1, as amended.

11) That Pinnergy will submit and maintain evidence of financial responsibility in the appropriate amount for any liability for damages which may be caused to any party by the escape or discharge of any material or waste from the disposal facility.

12) That Pinnergy will submit and maintain the appropriate funding in favor of the State of Louisiana, providing for the adequate closure of the disposal facility.

13) That responses to relevant comments received during the comment period are presented in Exhibit "A".

14) That the response to the "IT Decision" questions was timely submitted by the applicant and filed with the Red River Parish authorities. The Office of Conservation has reviewed the responses and found that the responses were acceptable in support of the application and that the application and "IT" responses indicate that the environment, public health and safety will be protected and that potential impacts, if any, will be minimized in that no waste will be disposed of at the surface of the site and that the appropriate safeguards, such as containment areas, will be in place prior to the operation of the facility.

15) That the Pinnergy facility is located east-northeast approximately 0.4 of a mile from the state registered Social Springs Community Water System, Inc. (Social Springs) public water supply well No. 081-288 which provides public drinking water supplies withdrawn from the Wilcox aquifer to residential and commercial customers in the surrounding area.

16) That the Pinnergy permit application Response to IT Questions, Item D.5.d., page 44, lines 2-4 reports; "Groundwater flow direction within the Wilcox Aquifer in Red River Parish is generally towards the Red River to the west/southwest, but can be affected by groundwater withdrawals. The aquifer discharges into the Red River."

17) The Social Springs public supply well 081-288 is located approximately 0.4 of a mile west-southwest of the Pinnergy facility between the Red River and the Pinnergy facility.

NOW, THEREFORE, IT IS ORDERED THAT:

1) The proposal of Pinnergy to construct and operate a commercial E&P Waste fluids injection well disposal facility in Section 22, Township 14 North, Range 9 West, Red River Parish, Louisiana, as set forth in the application, is hereby approved.

2) Except as to the extent supplemented by these Findings and Order, the provisions of LAC 43:XIX.Subpart 1.Chapter 5, as amended by the Office of Conservation, shall apply to the construction and operation of the Pinnergy E&P Waste fluids injection well disposal facility.

3) Pinnergy shall not commence construction of the facility and injection well until the provisions for adequate closure have been submitted in accordance with the requirements of LAC 43:XIX.513.

- 4) Based on Findings of Fact Numbers 15 – 17 above and in accordance with LAC 43:XIX.541, Pinnergy shall install an approved shallow subsurface water bearing zone and Wilcox aquifer monitoring well system to, at a minimum, establish baseline groundwater quality and aquifer conditions between the facility operations and the Social Springs public supply water well 081-288, prior to commencing any E&P Waste receipt, storage or disposal operations; and for periodic monitoring and reporting purposes following agency approval to commence facility operations.
- 5) Any modifications to the proposed construction of the facility and injection well, and any planned physical and/or operational alterations or additions following completion of facility construction, shall be subject to the provisions of LAC 43:XIX.535.
- 6) Pinnergy must notify the Commissioner when construction is complete, and shall not commence receiving E&P Waste until the facility has been inspected for compliance with the conditions of the permit, documentation submitted which demonstrates proof that a minor source air permit has been issued or deemed unnecessary by LADEQ, and the financial responsibility requirements of LAC 43:XIX.511 have been met.
- 7) The issuance of this permit does not convey, grant or establish any property rights to any movable or immovable property of any sort, or any exclusive privileges of servitude to or on behalf of Pinnergy. This permit further does not authorize any injury to private or public property, or any invasion of personal rights, or any infringement or suspension of Federal, State or local laws or regulations.
- 8) Findings of Fact Numbers 6-17 are hereby approved and are expressly ordered.
- 9) The responses to comments for Docket No. ENV 2019 - 03 (Exhibit "A") are hereby incorporated herein.
- 10) This Order shall be effective on and after January 28, 2020.

OFFICE OF CONSERVATION OF
THE STATE OF LOUISIANA



Richard P. Ieyoub
Commissioner of Conservation



EXHIBIT "A"

RESPONSE TO COMMENTS

Received During the Hearing and Public Comment Period
For
Pinnergy, LTD. (P308)
Red River Parish

DOCKET No. ENV 2019 – 03

Introduction:

Pinnergy, LTD., of Austin, Texas submitted an application for approval to construct and operate a commercial deep-well injection waste disposal facility for the disposal of exploration and production waste (E and P Waste) fluids located in Section 22, Township 14 North, Range 9 West, Red River Parish, Louisiana. Said application was scheduled for public hearing on September 26, 2019 at the Red River Parish Courthouse, third floor assembly room, located at 615 East Carroll Street, Coushatta, Louisiana. At the hearing, the public was given opportunity to submit oral and/or written comments concerning the application. The public comment period was open until 4:30 p.m. October 3, 2019 to receive additional comments after the hearing.

The agency received relevant public comments. Provided hereafter are those relevant comments (in **bold print text**) followed by the Commissioner's responses.

- 1) The application failed to meet location criteria set forth in LAC 43:XIX.507.A.1 because there is a private water well located less than 1,000' from the proposed permitted boundaries. The water well is owned by Patrick Shane McWilliams and located at 1426 Highway 514, Ringgold, Louisiana. This water well is connected to his home and serves as back up to the public supply water system. All that is required to begin using the water well is the turn of a valve.**

Department of Transportation and Development and Office of Conservation inspectors performed two separate inspections at the residential property at 1426 Highway 514, Ringgold, Louisiana (McWilliams property) on October 10, 2019 and October 18, 2019.

In summary, the inspectors observed and reported that this unregistered water well was not connected to the home nor otherwise in use at the time of these inspections. GPS location coordinates of the water well were taken by the inspector and reported on October 18, 2019 confirming that the water well is located within 1000 feet of the Pinnergy, Ltd. (Pinnergy) facility boundaries. The inspector further confirmed on October 18, 2019 that the home is connected to the Social Springs Water System public water supply.

Public comment was provided during the permit application hearing asserting that the water well located at the McWilliams property cannot lawfully be used as a private water supply well.

Since the residential home located at the McWilliams property is within 300 feet of an approved public water supply, that being the Social Springs Water System, the Louisiana Department of Health and Hospitals, Office of Public Health (OPH) is the appropriate governing agency with statutory and regulatory jurisdiction for the Office of Conservation staff to consult for regulatory compliance guidance to address the comments received regarding the legal status of this water well.

At the agency's request, OPH staff provided the following regulatory compliance determination regarding use of the McWilliams water well for residential private water supply.

"It is not permitted to have a residence simultaneously connected to a public water system and a domestic well. This is considered a cross-connection.

The homeowner must remain on the public water system by LAC 51:XII.347:

*§347. Connections to Public Water Supply
[formerly paragraph 12:018]*

A. All inhabited premises and buildings located within 300 feet of an approved public water supply shall be connected with such supply, provided that the property owner is legally entitled to make such a connection. The state health officer may grant permission to use water from some other source.

The public water system must prevent the cross-connection by LAC 51:XII.343 and 345:

*§343. Cross Connections
[formerly paragraph 12:016-1]*

A. There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water, hazardous fluid or contamination may enter a public water supply system.

B. [formerly paragraph 12:016-2] Water from any potable water supply complying with these requirements may be supplied to any other system containing water of questionable quality only by means of an independent line discharging not less than a distance equal to two times the pipe diameter or 2 inches, whichever is greater, above the overflow level of storage units open to atmospheric pressure or by other methods approved by the state health officer.

and

*§345. Connection with Unsafe Water Sources Forbidden
[formerly paragraph 12:017]*

There shall be no cross-connection, auxiliary intake, bypass, inter-connection or other arrangement, including overhead leakage, whereby water from a source that does not comply with these regulations may be discharged or drawn into any potable water supply which does comply with these requirements. The use of valves, including check or back pressure valves, is not considered protection against return flow, or back-siphonage, or for the prevention of flow of water from an unapproved source into an approved system."

Based on the findings above, Conservation finds the unregistered water well located at the McWilliams property not legally possible to be used as a private water supply well, therefore there is no regulatory infringement upon the Location Criteria of LAC 43:XIX.507.A.1.

2) The proposed facility and injection well will contaminate the Social Spring Community Public Supply water well because it is located only approximately 1,700' away from the proposed facility boundaries.

Review of Section D within this permit application confirms that the application provided a map drawn to scale detailing all public water supply wells within 1 mile of the proposed facility boundary in accordance with LAC 43:XIX.519.C.4.d.

Review of the Office of Conservation water well database confirms compliance with location criteria of LAC 43:XIX.507.A.1, i.e., the proposed facility is not located within ¼ mile of a public water supply well.

In accordance with LAC 43:XIX.533.B, commercial facilities and transfer stations shall be adequately manned during hours of receiving and off-loading E and P waste.

On page 8-9 of the Pinnergy permit application response to IT Questions, Pinnergy details numerous safeguards set in place that will minimize the potential dangers to water, soil, and food. The safeguard items listed include:

- Seamless concrete, bermed unloading area;
- Seamless concrete, bermed storage tank area;
- Seamless concrete, bermed truck washout area drive ramp;
- Seamless concrete, bermed truck washout collection area;
- Sealed expansion joints (i.e., where a seamless slab ties into a retaining wall);
- Steel casing;
- Concrete, epoxy coated sumps, trenches, truck washout area slab and collection area;
- Manned visual observations during (un)loading operations;
- Implementation of a Spill Prevention, Control and Countermeasure (SPCC) Plan developed and approved by a professional engineer;
- Implementation of and Emergency Response Plan;
- Employee training;
- Routine monitoring and
- Routine inspections.

On page 4 in Section K of the Pinnergy permit application, Pinnergy states the following in regards to the truck washout area: "The collection area will be constructed such that the shallow side is approximately two feet deep and the opposite side is six feet deep, with two foot high retaining walls. A minimum of 2.5' freeboard will be maintained between the collection area and the top of the retaining walls to prevent splashing outside the collection area."

On page 4 in Section K of the Pinnergy permit application, Pinnergy states: "In order to ensure the continued integrity of the epoxy, epoxy covered surfaces will be visually inspected on a daily basis during routine inspections. If any cracks or deficiencies develop in the epoxy, it will be repaired through either re-application over the previous epoxy layer, or removal of the previous epoxy layer and re-application of a new layer, in accordance with the manufacturers recommendations."

On page 4 in Section K of the Pinnergy permit application, Pinnergy states: "All sealed expansion joints (i.e., where a seamless slab ties in to a retaining wall) will be visually inspected on a daily basis during routine inspections. If any cracks or deficiencies develop in the sealed expansion joints, it will be repaired through either re-application over the previous sealant layer, or removal of the previous layer and re-application of a new layer, in accordance with the manufacturer's recommendations."

On page 10 in Section K of the Pinnergy permit application, Pinnergy states: "At a minimum, the truck washout collection area (concrete container) will be cleaned and inspected quarterly, including photos and submittal of an inspection report to the Office of Conservation – Environmental Division."

As required in LAC 43:XIX.519.C.11, the Pinnergy permit application includes an E and P Waste Management and Operations Plan (WMOP) which contains a spill contingency plan in accordance with LAC 43:XIX.515.F.2. In the event of an unauthorized release to the environment, Pinnergy is required to timely and comprehensively implement their spill contingency plan as detailed in Section K of the their permit application to contain the released material, clean up and restore the impacted area to prevent any impact to groundwater.

Conservation Order No. ENV 2019-04 CFB requires Pinnergy to install an approved shallow subsurface water bearing zone and Wilcox aquifer monitoring well system to, at a minimum, establish baseline groundwater quality and aquifer conditions between the facility operations and the Social Springs public supply water well 081-288, prior to commencing any E&P Waste receipt, storage or disposal operations; and for periodic monitoring and reporting purposes following agency approval to commence facility operations.

- 3) The application failed to meet location criteria set forth in LAC 43:XIX.507.A.2 because it is located near a residence and only approximately 0.5 miles from a federal wetlands area.**

Review of Section D within this permit application confirms that the facility location meets the location criteria of LAC 43:XIX.507.A.2.

Office of Conservation staff visited the proposed location and surrounding area on October 17 and November 7, 2019. Observations made during these site visits were supportive of Section D in the permit application.

- 4) The proposed facility and injection well poses a threat to public health, safety, and the environment. More specifically,**

- a. The application does not adequately address protection of the USDW sources. In addition, the applicant is requesting additional injection pressure which would require the installation of two monitoring wells. These monitoring wells are proposed to be constructed to a depth of 580' which is significantly lower than the 250' depth of the social springs water well. Therefore, the social springs water well will not be properly monitored.**
- b. The applicant failed to evaluate how contamination would be remediated in the USDW.**

- c. **The facility will cause subsurface contamination due to surface spills and surface runoff.**
- d. **The facility will emit air pollution and the applicant failed to obtain or even apply for a minor source air permit from LDEQ nor did they explain how they calculated the preliminary estimate of 5 tons per year air pollution emitted.**
- e. **The facility and trucks will cause noise and dust pollution.**

Although the applicant repeatedly refers to a request for increase injection pressures, that request is not part of this application. Any request for increased injection pressures will only be considered after the well is drilled, completed, and a Permit to Inject issued.

The Office of Conservation cannot consider a request for increased injection pressure until such a time the injection wells are constructed. Therefore, no approvals for increased injection pressure have been granted.

LAC 43:XIX.509 includes requirements for the design and construction of E and P Waste facilities to prevent movement of E and P Waste into soil, groundwater aquifers, or (USDW) and to prevent the unpermitted discharge of E and P Waste material or E and P Waste byproducts. These provisions also require that commercial facilities be designed and constructed in a manner which is protective of public health, safety and welfare and the environment, including surface waters, groundwater aquifers and the USDW. Accordingly, the Pinnergy permit application includes adequate retaining walls around all above-ground storage tanks to provide sufficient capacity to retain the contents of each storage tank. Also included in the permit application are provisions for spill containment at E and P Waste offloading areas to prevent the escape of any E and P Waste spillage which may occur. All E and P Waste offloading and transfer activities will be performed in containment or/and over seamless concrete slabs or/and utilizing spill containers at hose connections, designed and constructed to collect spillage resulting from these activities. In addition, truck washing operations will be conducted over seamless concrete equipped with splash walls in which all wash water will be accumulated in an epoxy coated collection area.

In accordance with the requirements of LAC 43:XIX.Subpart 1.Chapters 4 and 5, the Pinnergy permit application demonstrates that the proposed location of the disposal well and subsurface disposal zones are in a geological environment which is protective of the USDW by having adequate confining and containment zones. Pinnergy further indicates in the permit application that the disposal wells will be constructed, operated and monitored in accordance with applicable design, operational and monitoring requirements of LAC 43:XIX.Subpart 1.Chapters 4 and 5 for protection of the USDW and surrounding surface areas.

As required in LAC 43:XIX.519.C.11, the Pinnergy permit application also included an E and P Waste Management and Operations Plan (WMOP) which contains a spill contingency plan and a plan for routine inspection and maintenance of monitoring equipment in accordance with LAC 43:XIX.515.F.2 and 3. These plans include provisions for daily monitoring and inspection of facility equipment.

Review of the area surrounding the proposed facility confirms that the facility location meets the location criteria of LAC 43:XIX.507.A.1 and 2 (see responses to questions 1-3).

On page 7 of the Pinnergy permit application response to IT Questions, Pinnergy states: "Preliminary emission estimates indicate the emissions from the facility will be more than five tons per year." "Upon receipt of authorization to construct this facility from the LDNR, air emission estimates will be finalized and, if necessary, a Minor Source Permit will be obtained from the Louisiana Department of Environmental Quality (LDEQ). The minor source air permit from LDEQ or air permit determination from LDEQ demonstrating a minor source air permit is not required will be provided to LDNR prior to operation."

On page 46 of the Pinnergy permit application response to IT Questions, Pinnergy states: "... Ensuring areas of the facility that are not concrete-paved are adequately covered (i.e., limestone) and watered, as necessary, to reduce dust emissions."

Based on review of Pinnergy's permit application and the findings above, Conservation finds this question sufficiently addressed.

5) Operations at the proposed facility will increase truck traffic at the intersection of Highways 371 and 514 which will pose unacceptable transportation safety risks.

Jurisdiction and oversight of transportation related public safety matters lies with the Louisiana Department of Transportation and Development (DOTD).

To address this transportation related comment, agency staff contacted DOTD representatives for transportation regulatory consultation and guidance.

Agency staff met with a DOTD representative on October 17, 2019 at the intersection of Highways 371 and 514 in Red River Parish to discuss relevant transportation safety public comment for regulatory compliance guidance on the same. Conservation staff discussed transportation comments with the DOTD representative then performed a walk-through of the intersection together. The DOTD representative acknowledged that Pinnergy has complied with all of the applicable transportation and site entry/exit permit requirements for their proposed Highway 514 facility. During our visit, the DOTD representative informed that he was aware of only three traffic accidents, all without injury, reported during the past five years at and near the intersection. It was reported that these accidents did not involve semi-trucks or tractor trailers. The DOTD representative further advised that based on the reported anticipated volume of trucks to travel through the intersection resulting from Pinnergy facility operations, no additional traffic control, signage, lights, or other transportation safety related measures are required at this intersection at this time.

Before leaving the area, agency staff observed all existing signage leading up to and at the intersection, observed the flashing yellow caution lights at the intersection and drove through the intersection several times from all directions. After doing so, and having no more questions, agency staff found the DOTD representative's guidance satisfactory and concluded their site visit.

Based on review of Pinnergy's permit application and the above findings, there are no DOTD jurisdictional issues to be addressed by Pinnergy at this time.

6) Roads are not designed to handle the increased truck traffic that would result from the proposed facility operations.

The Pinnergy permit application response to IT Questions reported that a detailed evaluation of the roads and bridges along the proposed routes were conducted using bridge data provided by the Louisiana Department of Transportation and Development and the weight of the trucks. The applicant concluded that the proposed routes are equipped with roads and bridges capable of handling the weight of the trucks. The application further provides traffic route study maps which detail primary routes to the facility capable of handling the weight of the trucks and routes not to be used all within their anticipated customer base area.

On page 24 of the Pinnergy permit application response to IT Questions, Pinnergy states: "...bridge postings on the Traffic Route Study Maps will be adhered to; routes are available that avoid these posted bridges and Pinnergy's drivers are trained to adhere to such restrictions." "In the future, should transporters other than Pinnergy transport E and P waste to the proposed facility, prior to accepting the E and P waste, training will be provided regarding transportation, such as acceptable routes; bridge postings; parish road permit requirements and weight limits."

Section P of the Pinnergy permit application details that Louisiana Department of Transportation and Development Access Connection Permit Certificate 04015958 is required for operation of the proposed facility. On page 24 of the Pinnergy permit application response to IT Questions, Pinnergy states: "Access permit Number 04015958 has been granted by the Louisiana Department of Transportation and Development (LA DOTD) for purposes of providing access to the facility from State Highway 514."

Section P of the Pinnergy permit application details that the following Red River Parish Road Permits have been obtained for roads currently used by Pinnergy: 11385, 11386, 11387, 11388, 11389, 11390, 11391, 11392, 11393, 11504, 11505, 11506, 11507, 11508, 11509, 11510, 11511, and 11512. In addition, in this section Pinnergy states: "When necessary, Pinnergy will add and/or renew the Red River Parish Road Permits. Other parishes anticipated to be traveled in (Bienville and Bossier) do not require road permits for this activity. Should other parishes be traveled in, Pinnergy will meet the parish road permit requirements, as applicable."

On page 12 in Section K of the Pinnergy permit application, the following transportation plan is provided:

"The purpose of this plan is to provide training to drivers regarding the transportation of E and P waste. Training will be conducted prior to transporting the E and P waste. The following topics, at a minimum, will be included in the training:

1. Acceptable routes;
2. Bridge postings;
3. Parish road permit requirements and

4. Weight limits

Based on review of Pinnergy's permit application and the findings above, Conservation finds this question sufficiently addressed.

- 7) The facility lacks a truck staging area and the entrance highway to the facility does not contain adequate shoulders, therefore, trucks will back up on Highway 514 causing traffic issues.**

Page 10 of documentation dated October 3, 2019 submitted to the Office of Conservation during the public comment period by Breazeale, Sachse & Wilson, L.L.P. on behalf of Pinnergy, states: "Several comments were made that vehicles would park or line up along La. State Highway 514 while waiting to enter the Facility. This will not occur. The current configuration allows six trucks to be unloaded at any one time at a rate of twenty to thirty minutes per truck. This means that twelve to eighteen trucks can be unloaded every hour. Further, up to 38 trucks may be parked at the Facility (six unloading and 32 waiting to unload)." "As a result, there will be no need to park any vehicles along any public highway."

- 8) The Highway 514 entrance to the proposed facility is located near a curve and not designed to handle the amount of traffic as proposed, therefore, it will create dangerous traffic issues. In addition, the application failed to address how Pinnergy plans to protect the Social Springs Water System service line, which runs directly in front of the facility through the south right of way of Highway 514.**

Review of Section P in this permit application confirms that the applicant has detailed a Louisiana Department of Transportation and Development Access Connection Permit Certificate 04015958 was required for operation of the proposed facility.

On page 16 of the Pinnergy permit application response to IT Questions, Pinnergy states: "...Access permit number 04015958 has been granted by the Louisiana Department of Transportation and Development for purposes of providing access to the facility from State Highway 514..."

Page 10 of documentation dated October 3, 2019 submitted to the Office of Conservation during the public comment period by Breazeale, Sachse & Wilson, L.L.P. on behalf of Pinnergy, stated "The Louisiana Department of Transportation and Development ("DODT") has provided Access Permit Number 04015958 to Pinnergy for an entrance and a separate exit along La. State Highway 514. Application, App. P. Access connection permits are granted "to ensure safe and orderly movement for vehicular traffic entering and leaving the highway." LAC 70:l.1501.D.1."

Page 11 of documentation dated October 3, 2019 submitted to the Office of Conservation during the public comment period by Breazeale, Sachse & Wilson, L.L.P. on behalf of Pinnergy, states: "The DOTD's Access Permit Number 04015958 requires a paved driveway at the entrance and exit consisting of eight inches of reinforced 4,000 psi concrete with a twelve inch aggregate base, geogrid, and compacted natural ground. This should provide adequate protection. Nevertheless,

Pinnergy will work with Social Springs to provide adequate and acceptable plans to reinforce or otherwise protect the water line.”

- 9) The application failed to adequately evaluate the effect the facility will have on nearby property values. More specifically, the application failed to provide the names of the real estate agents consulted nor does it provide any data for effects on property values.**

On page 14 of the Pinnergy permit application response to IT Questions, Pinnergy states: “Overall, property values are not expected to be impacted positively or negatively. This was determined by discussing the potential effects with knowledgeable real estate agents, including one who sells property in and around Red River Parish. More specifically, it was suggested no positive or negative effect is expected since people will likely not move to or from the area as a result of the facility and the layout of the facility will be situated such that it will be primarily surrounded by undeveloped land and LDNR’s buffer zone requirements will be met.”

On page 39 of the Pinnergy permit application response to IT Questions, Pinnergy states: “The prospective site is not located within the bounds of a zoning authority and it is currently undeveloped.”

No supportive factual information was presented during the hearing or public comment period demonstrating that this type of facility will negatively impact property values in the area, therefore, the Office of Conservation has found the above responses acceptable to address this question, and review of the area surrounding the proposed facility confirms that the facility location meets the location criteria of LAC 43:XIX.507.A.2.

- 10) The permit application failed to adequately evaluate the negative impacts it will have on the surrounding community members.**

On page 7 of the Pinnergy permit application response to IT Questions, Pinnergy states: “Preliminary emission estimates indicate the emissions from the facility will be more than five tons per year.” “Upon receipt of authorization to construct this facility from the LDNR, air emission estimates will be finalized and, if necessary, a Minor Source Permit will be obtained from the Louisiana Department of Environmental Quality (LDEQ).” “The minor source air permit from LDEQ or air permit determination from LDEQ demonstrating a minor source air permit is not required will be provided to LDNR prior to operation.”

On page 8-9 of the Pinnergy permit application response to IT Questions, Pinnergy details numerous safeguards set in place that will minimize the potential dangers to water, soil, and food. The safeguard items listed include:

- Seamless concrete, bermed unloading area;
- Seamless concrete, bermed storage tank area;
- Seamless concrete, bermed truck washout area drive ramp;
- Seamless concrete, bermed truck washout collection area;

- Sealed expansion joints (i.e., where a seamless slab ties into a retaining wall);
- Steel casing;
- Concrete, epoxy coated sumps, trenches, truck washout area slab and collection area;
- Manned visual observations during (un)loading operations;
- Implementation of a Spill Prevention, Control and Countermeasure (SPCC) Plan developed and approved by a professional engineer;
- Implementation of and Emergency Response Plan;
- Employee training;
- Routine monitoring and
- Routine inspections.

On page 39 of the Pinnergy permit application response to IT Questions, Pinnergy states: “The prospective site is not located within the bounds of a zoning authority and it is currently undeveloped.”

On page 46 of the Pinnergy permit application response to IT Questions, Pinnergy states: “... Ensuring areas of the facility that are not concrete-paved are adequately covered (i.e., limestone) and watered, as necessary, to reduce dust emissions.”

Review of the area surrounding the proposed facility confirms that the facility location meets the location criteria of LAC 43:XIX.507.A.1 and 2 (see responses to questions 1-3).

Based on review of Pinnergy’s permit application and the findings above, Conservation finds this question sufficiently addressed.

11) The lease agreement presented in this application is for one injection well but the application is proposing two injection wells. In addition, the application details that the property was purchased which is inconsistent with the lease agreement.

On page 25 of the Pinnergy permit application response to IT Questions, Pinnergy states: “Pinnergy will own and operate the facility.”

Page 7 of documentation dated October 3, 2019 submitted to the Office of Conservation during the public comment period by Breazeale, Sachse & Wilson, L.L.P. on behalf of Pinnergy, Ltd., stated “It is true that the lease uses phrases in the singular, suggesting a single well. However, Pinnergy, as the lessee, has all of the rights of an owner, which would allow it to place two wells on the property.” “Regardless, if LDNR wishes to have the lease explicitly state that Pinnergy may place two disposal wells on the property, Pinnergy will submit a revised lease to that effect.”

12) Pinnergy failed to provide a sufficient notice of the public hearing because the only form of notification was through papers which most people no longer receive.

Further review of the Pinnergy permit application confirms compliance with LAC 43:XIX.519.B for publishing a notice of intent to file a commercial class II E and P waste disposal facility application with the Office of Conservation.

Further review of the Pinnergy permit application confirms compliance with LAC 43:XIX.529.A.1-3 for publishing a notice of the location, date and time of the public hearing.

13) The proposed facility poses a risk due to fire because the Red River Parish fire department are not properly trained nor have the proper equipment to handle a fire at this type of facility.

On page 25 of the Pinnergy permit application response to IT Questions, Pinnergy states: "To mitigate the needs of fire protection, equipment will be provided at the facility to respond in case of an emergency, such as fire extinguishers and spill kits. Therefore, it is not anticipated public costs for fire protection will increase as a result of this facility. The closest fire department, Red River Parish Fire Station 2, is located approximately 2.5 mile southwest of the proposed facility at 1210 Highway 788, Hall Summit, Louisiana."

Page 12 of documentation dated October 3, 2019 submitted to the Office of Conservation during the public comment period by Breazeale, Sachse & Wilson, L.L.P. on behalf of Pinnergy states: "the vast majority of materials will be salt water, which is not combustible. Further, oil generally has a higher ignition point and is less flammable, reducing the possibility of sudden ignition."

14) The application failed to provide a response to Section V detailed on the Commercial Facility and Transfer Station Guidance document.

The original application submittal did contain a response to Section V, but a Notice of Deficiency issued by the Office of Conservation dated November 26, 2018 allowed Pinnergy to remove the response to this section because review of the application confirmed that all requirements of Section V of the commercial facility and transfer station guidance document are met throughout the other sections in the application.

15) The site selection process is inadequate because the area considered for site selection did not match the expected geographical service area of the proposed facility which is Bossier, Bienville, and Red River parish. In addition, the applicant provides no rationale for why the seven sites were rejected beyond stating that they were rejected based on geology, availability, access and/or siting criteria.

On page 11 of the Pinnergy permit application response to IT Questions, Pinnergy states: "The site central location among many prolific oil and gas plays, as well as its close proximity to US Highway 371, make it optimal for many operators of well in Red River Parish and nearby parishes, especially since it will reduce the financial and environmental burden related to truck travel time. Information obtained from the LDNR Sonris database indicated there are no active commercial class II saltwater disposal wells within Red River Parish."

On page 12 of the Pinnergy permit application response to IT Questions, Pinnergy states: "Overall, there are more than 1,000 active wells within an approximately twelve (12) mile radius of the proposed location."

On page 12 of the Pinnergy permit application response to IT Questions, Pinnergy states: "There are currently no similar facilities east of the Red River within 25 road miles of the proposed facility in the Haynesville, Hosston and Cotton Valley production areas within Red River Parish or within the prolific Cotton Valley and Hosston producing areas in western Beinville Parish just north of the proposed facility location."

On page 12 of the Pinnergy permit application response to IT Questions, Pinnergy states: "The proposed facility location is near US Highway 371 and will reduce the overall number of large trucks on major roads, highways and bridges between these active fields and the commercial disposal facilities located on the western side of the Red River."

On page 12 of the Pinnergy permit application response to IT Questions, Pinnergy states: "...the facility is located near the Haynesville, Hosston, and Cotton Valley production areas where large volumes of E&P waste are generated. In fact, the proposed facility will provide a disposal location closer to these production areas, thus reducing overall, current traffic volume and improving efficiencies."

On page 22 of the Pinnergy permit application response to IT Questions, Pinnergy states: "The anticipated geographical area to be served is depicted on the Traffic Study Maps on pages 17-22. There may be occasions that a small percentage of the overall E&P waste volume would be accepted from outside the anticipated geographical area. For example, E&P waste may be accepted from outside the anticipated geographical area if an injection well is temporarily shut in; therefore, necessitating disposal options, like the proposed facility, be used for the affected operator(s) to continue production."

Pages 8 and 9 of documentation dated October 3, 2019 submitted to the Office of Conservation during the public comment period for this application process by Breazeale, Sachse & Wilson, L.L.P. on behalf of Pinnergy states:

"Pinnergy conducted a robust site selection process. It established nine criteria and evaluated eight sites, in total, against the criteria. It chose the current site because it met the established criteria. Application, App. Z, pp. 35-49."

"The established criteria include both environmental and business reasons and Pinnergy used these criteria to evaluate the eight sites. As such, due consideration was provided to environmental aspects of the project and not just business or economic concerns. In re: Supplemental Fuels, Inc., 94-1596 (LA. App. 1 Cir. 5/9/95), 656 So.2d 29, 39."

"In doing so, Pinnergy followed the guidance established by In re: Shintech, 2000-1984, (La. App. 1 Cir 2/15/02), 2002 WL 227954. In that case, Shintech limited its site selection to eight sites around the Dow facility because Dow was a supplier of feedstock for

Shintech. Despite this, the court found that the permit was appropriately granted and upheld its issuance.”

“Like Shintech, Pinnergy also reviewed eight sites close to the producers who will supply its ‘feedstock.’ The sites were centrally located to customers to the north and south. Additionally, the sites were located away from two competitors that service a large numbers of producers to the north and a competitor to the west.”

“Ultimately, seven sites were rejected due to poor geology, site availability, site access, and regulatory siting criteria. Further, there is no case or requirement that the rationale for rejection be explained in detail. More importantly, Pinnergy explains in great detail why this site was chosen and why this site best meets the nine established criteria. See Application, App. Z, pp. 35-49, incorporated herein by reference”

16) The application failed to provide the amount of water usage necessary for the truck wash area. Pinnergy signed a water usage agreement with the Social Springs Water System which will only allow 10,000 gallons of water used in a single month.

Page 11 of documentation dated October 3, 2019 submitted to the Office of Conservation during the public comment period for this application process by Breazeale, Sachse & Wilson, L.L.P. on behalf of Pinnergy stated: “Pinnergy estimates that less than 10,000 gallons per month will be used at the facility. If more is needed, Pinnergy will reduce the amount of water used or reduce the number of trucks washed.”

Page 7 of comments submitted during the public hearing on behalf of the Social Springs Community Water System, Inc., its undersigned members, and the undersigned local residents of the area surrounding the proposed location state: “...Pinnergy signed a water user agreement with Social Springs. As part of that agreement, Pinnergy agreed that it would lose water service if it used more than 10,000 gallons of water in a single month.”

Based on the findings above, Conservation finds this question sufficiently addressed.

17) The proposed facility will not benefit the community, only Pinnergy.

On page 11 of the Pinnergy permit application response to IT Questions, Pinnergy states: “...it is anticipated that initially at least one (1) supervisor and six (6) full time employees will be employed by the facility. Based on business needs the number of full time employees could increase by an additional one (1) to three (3) full-time employees. The estimated annual payroll range is \$300,000 to \$400,000 per year. Furthermore, ad valorem taxes will be paid to Red River Parish....”

On page 13 of the Pinnergy permit application response to IT Questions, Pinnergy states: “The expected tax base is ad valorem taxes that will be paid to Red River Parish and wage and sales taxes that will be paid to state and federal agencies.”

Based on the findings above, Conservation finds this question sufficiently addressed.

18) The application details that the facility will generate solid waste but failed to provide an E and P waste management plan.

In accordance with LAC 519.C.11, a detailed E and P waste management and operations plan was provided in Section K of the application. More specifically, on page 10 of the WMOP, Pinnergy states: "As needed, a roll off waste container will be located near the truck washout area to store residual solids removed from the truck washout area. It is estimated the residual solids will be removed and disposed once per quarter from the truck washout area and the container will be on site for approximately one week. The majority of this waste will be solids. However, to prevent the release of incidental liquids, a will be place in the container and a temporary earthen containment berm will be constructed around the container. The roll off waste container will be transported for disposal in accordance with applicable rules and regulations."

On page 6 of the Pinnergy permit application response to IT Questions, Pinnergy states: "Waste generated by the facility (i.e., debris from filter pots, trash, tank bottoms, storm water from the storage tank area firewall, truck washout area water and residual solids) will be managed in accordance with applicable rules and regulations (i.e., dumpster, drums, lined roll-off or injection). It is anticipated trash will account for <1%, tank bottoms will account for <1%, storm water from the storage tank area firewall will account for <1%; water from the truck washout area will account for <4% and residual solids from the truck washout area will account for <5% of the total waste handled at the facility."

On page 30 of the Pinnergy permit application response to IT Questions, Pinnergy provides a flow chart which describes the sequence of technology used from arrival of wastes to the end process. In this flow chart, Pinnergy details solids cleaned from tanks and the truck washout area collection will be removed and temporarily stored on site in a temporary container which then will ultimately be disposed at a E and P waste disposal facility.

Based on review of Pinnergy's permit application and the findings above, Conservation finds this question sufficiently addressed.

19) The injection well will cause earthquakes.

To date, there are no documented instances in which Class II commercial disposal operations have resulted in earthquakes within the state of Louisiana.