

STATE OF LOUISIANA
OFFICE OF CONSERVATION
BATON ROUGE, LOUISIANA

Basis for Decision

for

Air Products Blue Energy, LLC (A10206)
Maurepas N TST-DM #2 Well No. 002
Application No. 43739

Docket No. IMD 2023-02

* * * * *

On November 17, 2022, Air Products Blue Energy, LLC (Air Products) submitted an application to the Injection and Mining Division (IMD) of the Louisiana Department of Natural Resources' (LDNR) Office of Conservation (OC) for a permit to drill a Class V stratigraphic test well at an approximate location of latitude of 30° 18' 10.20" North and longitude of 90° 28' 30.77" West (North American Datum of 1927 – Louisiana South) in Livingston Parish in order to collect geotechnical cores, fluid samples, static pressure measurements, and other applicable information.

The OC conducted a review of the above-referenced permit application and prepared a proposed permit decision. While the OC does not believe that a review of this application under the analysis articulated by *Save Ourselves, Inc. v. La. Env't Control Cmm'n*, 452 So. 2d 1152 (La. 1984) ("IT Analysis") is legally necessary as part of the final permit decision for a Class V stratigraphic test well, such a review has been completed for this Basis of Decision out of an abundance of caution.

After review of the complete application and due consideration of all comments received during the public comment period, the OC finds that, as part of its IT Analysis, any adverse environmental impacts have been minimized or avoided to the maximum extent possible. To make this determination, the OC finds that the above-referenced permit application complies with all applicable statutes and regulations and has otherwise minimized or avoided to the maximum extent possible any adverse environmental impacts. Additionally, the OC finds that Air Products has met the alternative projects, alternative sites, and mitigation measures requirements of an IT Analysis for the above-referenced application.

After the OC determined that any adverse environmental impacts had been minimized or avoided to the maximum extent possible, it balanced social and economic factors with environmental impacts. Notably, the Louisiana Constitution does not establish environmental protection as an exclusive goal, but instead requires a balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social, and other factors. Accordingly, the OC finds that the social and economic benefits of the proposed project will outweigh its adverse environmental impacts.

The details of the OC's reasoning are set forth below.

FINDINGS OF FACT

I. PROJECT SUMMARY

On November 17, 2022, Air Products submitted an application to the IMD for a permit to drill a Class V stratigraphic test well in order to collect geotechnical cores, fluid samples, static pressure measurements, and other information. The purpose of the stratigraphic test well is to collect subsurface information in order to evaluate the feasibility of developing a carbon capture and sequestration program in the area. After the proposed well is completed, it may be utilized as a monitoring well in the future if a sequestration project is developed. Otherwise, the well would be plugged and abandoned and removed if the sequestration project does not move forward.

The acquisition of geotechnical data is proposed to occur in the drilling and completion of this well. The proposed well is not presently permitted for the disposal of waste via injection. Approximately 15 liters of drilling mud will be injected at test intervals identified in the permit. The drilling mud will be synthetic-based mud (vegetable oil based) and not petroleum based.

The total depth of the well is approximately 8,213 feet below ground level (bgl). The base of the lowermost underground source of drinking water (USDW) is approximately 3,230 feet bgl. There are no registered water wells located within a one-mile radius of the proposed well location. The principal regional aquifers in the area consist of the confined Norco Aquifer and the confined Gonzales-New Orleans Aquifer below it.

After conducting a review of the permit application, the OC prepared a draft permit decision. The draft permit conditions were based on applicable regulations as set forth in Statewide Order No. 29-N-1 (LAC 43:XVII, Subpart 1), as amended. Such regulations provide for the protection and non-endangerment of USDW and the permitting, drilling, completing, operating, and maintaining of Class I (nonhazardous waste), Class III, Class IV, and Class V injection wells in the State of Louisiana.

II. PUBLIC COMMENT

Public notice of the hearing was given on June 28, 2023, in *The Advocate*, the *L'Observateur*, and the *Daily Star*; on June 29, 2023, in *The Livingston Parish News*; and on June 26, 2023, by forwarding a copy of the public notice to the parish presidents of Livingston Parish, St. John the Baptist Parish, and St. Tammany Parish and to interested parties. A copy of the list of interested parties may be requested by emailing injection-mining@la.gov.

A public hearing was held on August 2, 2023, at the LaSalle Building in Baton Rouge, Louisiana. At the hearing, all interested parties were afforded the opportunity to present oral or written comments on the proposed permit action. The public comment period began on June 26, 2023, and ended on August 3, 2023.

The OC received 17 written comments and 14 oral comments during the public comment period. After reviewing and considering all comments received during the public hearing, the OC prepared a Response to Public Comments for all relevant comments, is attached hereto and made a part hereof.

III. RELATED PERMITS

Since some of the details regarding the social and economic benefits and adverse environmental impacts of the proposed project were addressed as part of the permitting process for Coastal Use Permit No. P20220390 issued by the LNDR's Office of Coastal Management (OCM), that permit is incorporated by reference into this Basis for Decision.

IV. AVOIDANCE OF ADVERSE ENVIRONMENTAL IMPACTS: Have the potential and real adverse environmental impacts been avoided to the maximum extent possible?

Potential and real adverse environmental effects were considered both in regard to the construction of the well itself and with respect to construction activities to be completed in support of drilling-related activities. Along with the permit application, the OC considered information submitted during the public comment period and information submitted to the OCM as part of the Coastal Use Permit application process.

Air Products has completed or committed to completing the following activities in order to avoid potential and real adverse environmental impacts:

- A. Protection of the USDW by proposing to set surface casing below the lowermost USDW and cementing that casing to surface in accordance with IMD standards;
- B. Minimizing and mitigating any impact to Lake Maurepas by conducting all dredging and prop-washing activities in accordance with the conditions set out in the Programmatic General Permit (MVN-2011-03218-CQ) issued by the United States Army Corps of Engineers (USACE) and Coastal Use Permit No. P20220390 issued by the OCM;
- C. Ensuring that all sanitary waste generated during the subject activity is properly disposed of and not discharged without authorization from the Louisiana Department of Health (LDH) and/or Louisiana Department of Environmental Quality (LDEQ), as necessary;
- D. Implementing zero-discharge drilling operations along with the development of a well control emergency response plan;
- E. Implementing an independent environmental monitoring program by Southeastern Louisiana University;
- F. Completing wildlife habitat surveys for the detection of any federally protected species; and
- G. Contacting the Louisiana Department of Wildlife and Fisheries (LDFW) and the United States Fish and Wildlife Service (USFWS) to help identify the presence of any known, threatened, or endangered species potentially in the area.

CONCLUSION: For the foregoing reasons, the OC finds that Air Products has avoided, to the maximum extent possible, the potential and real adverse environmental impacts associated with this permit application.

V. ALTERNATIVE PROJECTS: Are there alternative projects which would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits?

The project was planned in order to evaluate the feasibility of developing a carbon capture and sequestration program at Lake Maurepas. Preliminary geologic assessments have already been conducted by Air Products using existing well logs and seismic information as well as publications. Nevertheless, site-specific information is not currently available. The collection of site-specific data, such as cores, fluid samples, static pressure measurements, and other information, are necessary for full assessment of a potential geologic sequestration project and cannot be acquired through other means except direct testing of subsurface formations via drilling.

Since the stated intent of the proposed well is to assess the suitability of formations of interest located in the subsurface below Lake Maurepas for geologic sequestration, the whole purpose of the stratigraphic test well would be compromised if it were sited outside Lake Maurepas.

CONCLUSION: For the foregoing reasons, the OC finds that there are no alternative projects which would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits.

VI. ALTERNATIVE SITES: Are there alternative sites which would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits?

The site location was selected in order to provide the necessary subsurface information needed to evaluate the feasibility of developing a carbon capture and sequestration program at Lake Maurepas. No other location options are available that would avoid the placement of the proposed well within Lake Maurepas and associated impacts to Lake Maurepas' water bottom.

Additionally, other areas on the north side of Lake Maurepas were not selected due to concerns about the potential impact to points of ingress and egress for the lake. The proposed well will be located away from the mouths of the Amite and Tickfaw Rivers as well as away from the North Pass and Manchac boat launches so as not to affect ingress into or egress out of Lake Maurepas. Furthermore, the proposed site location will not impact wetlands.

CONCLUSION: For the foregoing reasons, the OC finds that there are no alternative sites which would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits.

VII. MITIGATING MEASURES: Are there mitigating measures which offer more protection to the environment, than the facility as proposed, without unduly curtailing non-environmental benefits?

Potential and real adverse environmental effects were considered both in regard to the construction of the well itself and with respect to construction activities to be completed in support of drilling-related activities. Along with the permit application, the OC considered information submitted during the public comment period and information submitted to the OCM as part of the Coastal Use Permit application process.

Air Products has completed or committed to completing the following mitigating measures:

- A. Protection of the USDW by proposing to set surface casing below the lowermost USDW and cementing that casing to surface in accordance with IMD standards;
- B. Minimizing and mitigating any impact to Lake Maurepas by conducting all dredging and prop-washing activities in accordance with the conditions set out in the Programmatic General Permit (MVN-2011-03218-CQ) issued by the USACE and Coastal Use Permit No. P20220390 issued by the OCM;
- C. Ensuring that all sanitary waste generated during the subject activity is properly disposed of and not discharged without authorization from the LDH and/or LDEQ, as necessary;
- D. Implementing zero-discharge drilling operations along with the development of a well control emergency response plan;
- E. Implementing an independent environmental monitoring program by Southeastern Louisiana University;
- F. Completing wildlife habitat surveys for the detection of any federally protected species; and
- G. Contacting the LDFW and the USFWS to help identify the presence of any known, threatened, or endangered species potentially in the area.

CONCLUSION: For the foregoing reasons, the OC finds that there are no mitigating measures which offer more protection to the environment, than the facility as proposed, without unduly curtailing non-environmental benefits.

VIII. COST-BENEFIT ANALYSIS (BALANCING): Does a cost-benefit analysis of the environmental impact costs balanced against the social and economic benefits of the proposed facility demonstrate that the later outweighs the former?

Environmental impact costs associated with this permit application include the following:

- A. Lake sediment will be disturbed by dredging and prop washing during the deepening of the channels that would be used for barge transport. Nonetheless, Air Products worked to select the optimal barge route to minimize the amount of sediment to be displaced by dredging and prop washing. Additionally, the use of the prop wash method will further reduce sediment displacement and impacts to Lake Maurepas' water bottom.
- B. Dredge material will be created and must be disposed of. Nevertheless, as described in Coastal Use Permit No. P20220390 issued by the OCM, all fill and/or dredge material shall be disposed of at a state-approved facility. Additionally, Air Products has made a

contribution in the amount of \$39,710.00 to the Coastal Resources Trust Fund in accordance with the Beneficial Use of Dredged Materials guidelines.

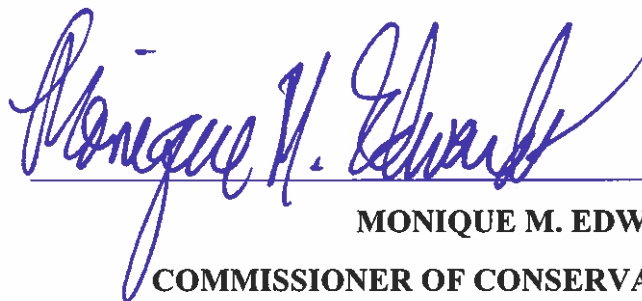
The fundamental purpose and benefit of the proposed project is the collection of the geologic data needed to evaluate fully the feasibility of potential geologic sequestration at this location. The proposed well is not presently permitted for the disposal of waste via injection.

Preliminary geologic assessments have already been conducted by Air Products using existing well logs and seismic information as well as publications. Nevertheless, site-specific information is not currently available. The collection of site-specific data, such as cores, fluid samples, static pressure measurements, and other information, are necessary for full assessment of a potential geologic sequestration project and cannot be acquired through other means except direct testing of subsurface formations via drilling.

CONCLUSION: For the foregoing reasons, the OC finds that the social and economic benefits of the collection of this data via the drilling of the proposed well outweigh its environmental impact costs.

IX. CONCLUSION

The OC has conducted a review of the entire administrative record, including the permit application and other information submitted by Air Products. Based on its review of the entire record as a whole and for all of the foregoing reasons, the OC concludes that the application satisfies the requirements of the public trust doctrine of the State of Louisiana as articulated by *Save Ourselves, Inc. v. La. Env't Control Cmm'n*, 452 So. 2d 1152 (La. 1984) as well as applicable statutes and regulations. Accordingly, the OC shall issue the permit for the above-referenced application to Air Products for the drilling of a Class V stratigraphic test well.



A handwritten signature in blue ink, reading "Monique M. Edwards", is written over a horizontal blue line. Below the line, the name and title are printed in black, bold, uppercase letters.

MONIQUE M. EDWARDS

COMMISSIONER OF CONSERVATION

Response to Public Comments

for

Air Products Blue Energy, LLC (A10206)
Maurepas N TST-DM #2 Well No. 002
Application No. 43739

Docket No. IMD 2023-02

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On November 17, 2022, Air Products Blue Energy, LLC (Air Products) submitted an application to the Injection and Mining Division (IMD) of the Louisiana Department of Natural Resources' (LDNR) Office of Conservation (OC) for a permit to drill a Class V stratigraphic test well at an approximate location of latitude of 30° 18' 10.20" North and longitude of 90° 28' 30.77" West (North American Datum of 1927 – Louisiana South) in Livingston Parish in order to collect geotechnical cores, fluid samples, static pressure measurements, and other information.

Public notice of the hearing was given on June 28, 2023, in *The Advocate*, the *L'Observateur*, and the *Daily Star*; on June 29, 2023, in *The Livingston Parish News*; and on June 26, 2023, by forwarding a copy of the public notice to the parish presidents of Livingston Parish, St. John the Baptist Parish, and St. Tammany Parish and to interested parties. A copy of the list of interested parties may be requested by emailing injection-mining@la.gov.

A public hearing was held on August 2, 2023, at the LaSalle Building in Baton Rouge, Louisiana. At the hearing, all interested parties were afforded the opportunity to present oral or written comments on the proposed permit action. The public comment period began on June 26, 2023, and ended on August 3, 2023.

The OC received 17 written comments and 14 oral comments during the public comment period. After reviewing and considering all comments received during the public hearing, the Commissioner of Conservation has grouped comments together based on topical similarity and responded to the relevant comments as follows:

COMMENT:

Comments were received stating opposition to the draft permit due to concerns pertaining to climate and energy policy, permitting of Class VI geologic sequestration wells, potential injection of carbon dioxide, issuance of seismic exploration permits, dredging and/or prop washing, water pollution control regulations, potential wildlife impacts, associated surface disturbances, and possible effects on recreational and conservation uses of Lake Maurepas.

RESPONSE:

These matters are under the authority of other state and federal agencies and are beyond the OC's jurisdictional authority. As such, they are not considered relevant to the OC's decision

regarding this application. The final permitting decision will be based on the application's conformance with all relevant statutes pertaining to the OC's regulatory authority; the rules and regulations for Class V wells found in Statewide Order No. 29-N-1 (LAC 43:XVII, Subpart 1); the protection of underground sources of drinking water (USDW); and the health, safety, and welfare of the public.

Comments pertaining to the permitting of Class VI injection wells are not considered relevant to the OC's decision regarding this application. The proposed well is not presently permitted to be used for injection of carbon dioxide or for waste disposal. The United States Environmental Protection Agency (USEPA) currently holds primary enforcement authority (primacy) for Class VI injection wells. Please contact Region 6 of the USEPA with any questions related to the permitting or operations of Class VI injection wells.

Comments pertaining to the permitting of pipelines are not considered relevant to the OC's decision regarding this application. Pipelines are regulated at the federal level by the Pipeline and Hazardous Materials Safety Administration (PHMSA). Intrastate pipelines are regulated on the state level by the OC's Pipeline Division. The permitting process for pipeline projects is distinct from that of underground injection projects. Regulation of pipelines is outside the scope of the IMD's authority for regulation of underground injection projects.

Comments pertaining to the potential impacts from construction-related activities, construction projects in coastal zones and wetlands, dredging and/or prop washing, and disposal of dredged material are not considered relevant to the OC's decision regarding this application. The LDNR's Office of Coastal Management (OCM) issued Coastal Use Permit No. P20220390, and the United States Army Corps of Engineers (USACE) issued Permit No. MVN-20ii-03218-CQ for this project. These specific questions are accounted for as part of those permitting processes and are outside the scope of OC's jurisdictional authority.

Comments pertaining to the management of state-owned lands and wildlife management areas are not considered relevant to the OC's decision regarding this application. The LDNR's Office of Mineral Resources (OMR) and the Louisiana Department of Wildlife and Fisheries (LDWF) are separate and distinct governmental agencies from the OC and, therefore, have no statutory authority to participate in the permitting of a Class V stratigraphic test well.

Comments pertaining to potential impacts on fishing equipment from construction-related activity are not considered relevant to the OC's decision regarding this application. Nevertheless, damage to commercial fisherman gear may be considered within the scope of OCM's Fisherman Gear Compensation Fund.

Comments pertaining to aspects of Water Pollution Control as regulated by LAC 33:IX are not considered relevant to the OC's decision regarding this application. LAC 33:IX is implemented by the Louisiana Department of Environmental Quality (LDEQ), which is a separate and distinct governmental agency from the OC and, therefore, has no statutory authority to participate in the permitting of a Class V stratigraphic test well.

COMMENT:

Comments were received alleging that the IMD had not performed a sufficiently thorough review of the application and that the IMD's decision was a foregone conclusion based upon financial considerations.

RESPONSE:

None of the employees of the IMD and the OC has received anything of value from the applicant in connection with this application. The application was reviewed by staff in accordance with applicable statutes and regulations and handled as any other application for the same type of project is handled. No pre-decisional conclusions were formed regarding this application.

COMMENT:

Comments were received stating that the proposed Class V permit or any future Class VI permits should not be issued because such an action would be incompatible with the OC's duty under the public trust doctrine of La. Const. art. IX, § 1.

RESPONSE:

Comments pertaining to the permitting of future Class VI injection wells are not considered relevant to the OC's decision regarding this application. The USEPA currently holds primacy for Class VI injection wells. Please contact Region 6 of the USEPA with any questions related to the permitting or operations of Class VI injection wells.

The proposed well is not presently permitted to be used for injection of carbon dioxide or for waste disposal, nor are those matters encompassed within the scope of the pending application. Rather, the proposed well is intended for the collection of geological and reservoir data. While the public trust doctrine applies generally to governmental functions in relation to natural resources, administrative agencies, including the OC, are granted a latitude of discretion in the doctrine's implementation and, therefore, in substantive results of permitting decisions. The OC does not consider this permitting decision to constitute a major permitting decision necessitating a constitutional analysis under *Save Ourselves, Inc. v. La. Env't Control Cmm'n*, 452 So. 2d 1152 (La. 1984). In the judgment of the OC, the public trust doctrine can be upheld in certain instances without the application of that analysis.

Nevertheless, the OC has completed such a review in a separate Basis of Decision out of an abundance of caution. To complete this review, the OC considered the permit application, all information submitted during the public comment period, and information submitted to the OCM as part of the Coastal Use Permit application process.

COMMENT:

Comments were received stating that an environmental assessment and/or alternatives analysis—variously referred to by several commenters as a cost-benefit analysis, environmental impact study, and/or the IT Questions—should be required as part of this Class V stratigraphic test application.

RESPONSE:

The IT Questions, colloquially known as the “Louisiana Constitutional Considerations,” the “IT Question Responses,” the “*Save Ourselves* Questions,” or the “SOS Decision Questions,” are a weighing of siting considerations, environmental effects, and a cost-benefit analysis. Satisfactory completion of these questions is required for certain permitting decisions, namely major permitting decisions, under *Save Ourselves, Inc. v. La. Env’t Control Cmm’n*, 452 So. 2d 1152 (La. 1984).

The proposed well is not presently permitted to be used for injection of carbon dioxide or for waste disposal, nor are those matters encompassed within the scope of the pending application. Rather, the proposed well is intended for the collection of geological and reservoir data. While the public trust doctrine applies generally to governmental functions in relation to natural resources, administrative agencies, including the OC, are granted a latitude of discretion in the doctrine’s implementation and, therefore, in substantive results of permitting decisions. The OC does not consider this permitting decision to constitute a major permitting decision necessitating a constitutional analysis under *Save Ourselves, Inc. v. La. Env’t Control Cmm’n*, 452 So. 2d 1152 (La. 1984). In the judgment of the OC, the public trust doctrine can be upheld in certain instances without the application of that analysis.

Nevertheless, the OC has completed such a review in a separate Basis of Decision out of an abundance of caution. To complete this review, the OC considered the permit application, all information submitted during the public comment period, and information submitted to the OCM as part of the Coastal Use Permit application process.

La R.S. 1104.1 requires the completion of an environmental analysis as part of the application for a Class VI injection well. If the USEPA grants the OC primacy over Class VI injection wells for geologic sequestration, applicants will be required to complete satisfactorily the environmental analysis as part of the Class VI application process. Nevertheless, comments pertaining to the permitting of Class VI injection wells are not considered relevant to the OC’s decision regarding this application. The USEPA currently holds primacy for Class VI injection wells. Please contact Region 6 of the USEPA with any questions related to the permitting or operations of Class VI injection wells.

COMMENT:

Comments were received stating that the fact sheet prepared for the draft permit and public hearing is deficient, since it purportedly did not set forth the significant factual, legal, methodological, and policy questions considered in preparing the draft permit.

RESPONSE:

Per the requirements detailed in LAC 43:XVII.111.D.2, the following items were included in the fact sheet, as applicable:

- A brief description of the proposed activity;
- The quantity and type of fluids to be injected;
- A brief summary of the applicable regulatory provisions serving as the basis for draft permit conditions;
- A description of the procedures for reaching a final decision on the draft permit, including:
 - o The beginning and ending dates of the comment period under LAC 43:XVII.111.F;
 - o The address where comments can be received;
 - o The nature of the hearing;
 - o Any other procedures by which the public may participate in the final decision; and
 - o The name and telephone number of a person to contact for information.

Given the limited nature of the Class V stratigraphic test well itself, the OC did not consider potential affects to Lake Maurepas as a significant policy question. Policy questions and considerations associated with Class VI injection wells or concerning activities permitted by other regulatory authorities are beyond the jurisdiction of the OC and, hence, beyond the scope of this draft permit and fact sheet. The OC must defer to the regulatory decisions of administrative agencies with jurisdiction over such matters, as such jurisdiction has been legislatively delegated to them.

COMMENT:

Comments were received asking for clarification on whether or not the OC had taken the future utilization of the proposed well into consideration, specifically on whether Air Products would be allowed to convert the proposed well to a Class VI geologic sequestration well.

RESPONSE:

The OC did not consider the hypothetical conversion of the proposed stratigraphic test well to be converted to a waste disposal or any other type of injection well as a significant legal question to be set forth in the fact sheet. The question of potential future utilization of the proposed well as a potential deep monitor well is accounted for in the permit application on Box 3 (Identify Well Use) of Form UIC-25 (Class-V Well Permit Application).

For the proposed well to be a candidate for utilization as a monitor well or for conversion to a waste disposal well or any other type of injection well, an applicant would be required to obtain permits to construct from the OC or the USEPA for that specific well type. The USEPA, not the OC, currently holds primacy for Class VI injection wells. Nonetheless, a Class VI well, whether permitted by the USEPA or the OC, would be required to meet all relevant Class VI regulatory

requirements, including construction standards. Issuance of a Class V stratigraphic test well permit does not guarantee issuance of a Class VI geologic sequestration well permit, since the two permitting decisions are different.

COMMENT:

A comment was made stating that the fact sheet prepared for the draft permit did not disclose LNDR's financial interest in potential geologic sequestration projects at Lake Maurepas.

RESPONSE:

This is an issue considered by the OMR, which is a separate and distinct entity from the OC. First, per La. R.S. 36:359(B)(1), the executive officers of the LDNR, which supervises the OMR, have no authority to exercise, review, administer, or implement the quasi judicial, licensing, permitting, regulatory, rulemaking, or enforcement powers or decisions of the Commissioner of Conservation. Therefore, the OC's regulatory independence is preserved from any decision making by or for the OMR. Second, any financial benefit to the State's revenues as a whole in the form of lease fees and royalties is not guaranteed to be appropriated to the OC. Accordingly, this issue is too tenuous and speculative for the OC to consider. Finally, the particular pace of construction is not a relevant issue in making a permitting decision. Rather, the salient issue is whether construction will meet regulatory standards and requirements for the protection of public health, safety, and welfare. The OC has considered the latter issue in its analysis of this permit application.

COMMENT:

A comment was received stating that subsurface information from Maurepas TST DM #1 Well No. 001 (Serial No. 976031) should be made publicly available prior to issuance of the second permit.

RESPONSE:

At the time of public hearing, Air Products had received the approval to construct Serial No. 976031 but had not yet begun construction on the well. As such, no post-drill information for that well was available for public review at that time. While such information could potentially be included in a future application for a Class VI geologic sequestration well and would then be subject to any associated requirements regarding release of public information, this consideration is currently beyond the scope of inquiry for this Class V draft permit application.

COMMENT:

A comment was received stating that issuance of the proposed Class V permit would be incompatible with the conservation easements and/or servitudes associated with tracts of land that comprise the Maurepas Swamp Wildlife Management Area.

RESPONSE:

The proposed well itself will be located on a state-owned water bottom and is not subject to potential restrictions associated with the conservation easements and/or servitudes for the referenced tracts of land.

COMMENT:

A comment was received asking how the LDNR accounted for “existing, documented failures to maintain classes of injection wells” as part of the draft permit process.

RESPONSE:

Compliance and reporting requirements for the proposed well are addressed in the draft permit and current regulations and statutes, including, but not limited to, LAC 43:XVII, Subpart 1. These provisions elaborate on required monitoring and compliance enforcement procedures, which, therefore, do not necessitate explicit consideration. The use of these procedures is reasonably assumed.

COMMENT:

A comment was received questioning whether construction of the proposed Class V well might endanger the USDW due to the geologic setting of Lake Maurepas. The comment also made reference to the potential impacts of the geologic setting on plans for geologic sequestration.

RESPONSE:

The permitting process for Class V stratigraphic test wells, including technical criteria and standards, is addressed in the draft permit and current regulations and statutes, including, but not limited to, LAC 43:XVII, Subpart 1. Potential risks to the USDW were extensively evaluated as part of this application process. Injection well operators are required to identify, avoid, and mitigate potential risks to the USDW. In the drilling plan of Application No. 43739, Air Products proposes setting surface casing below the lowermost USDW and cementing that casing to surface. The proposed procedure also states that open-hole electrical logs will be run to verify the depth of the lowermost USDW in the well itself. Air Products will be required to set the surface casing at a minimum of 100 feet below the lowermost USDW to ensure sufficient protection of the USDW.

As stated above, comments pertaining to the permitting of Class VI geologic sequestration wells are not considered relevant to the OC’s decision regarding this application, since the USEPA currently holds primacy for Class VI injection wells.

COMMENT:

A comment was received asking if Air Products had communicated with the LDNR or first responders in the Lake Maurepas area regarding safety plans in the event of a carbon dioxide release.

RESPONSE:

The proposed well is not presently permitted to be used for injection of carbon dioxide. Comments pertaining to the permitting of Class VI geologic sequestration wells are not considered relevant to the OC's decision regarding this application, since the USEPA currently holds primacy for Class VI injection wells.

COMMENT:

A comment was received questioning what is to prevent the proposed Class V well from becoming an orphan well.

RESPONSE:

LAC 43:XVII.107.C requires a permittee to maintain financial responsibility and resources to close, plug, and abandon injection wells in a manner prescribed by the Commissioner of Conservation. As part of the Class V application, Air Products was required to submit the following:

- A detailed cost estimate to plug and abandon (P&A) the proposed well prepared by a third-party professional consultant (located in State Exhibit No. 6 of the referenced docket at page 40 of 40);
- An approvable P&A procedure (located in State Exhibit No. 6 of the referenced docket at page 39 of 40); and
- A well schematic of the proposed P&A (located in State Exhibit No. 6 of the referenced docket at page 39 of 40).

Air Products will be required to have an approved form of financial security in place with the OC prior to the issuance of a permit to construct. The amount provided should, at a minimum, cover the amount provided in the detailed cost estimate.

COMMENT:

A comment was received stating that the Class V draft permit should not be issued without considering the potential impacts of geologic sequestration on Lake Maurepas and the surrounding communities.

RESPONSE:

Policy questions and considerations associated with the injection of carbon dioxide or activities permitted by other regulatory authorities are beyond the jurisdiction of the OC and the scope of the draft permit and fact sheet.