

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

AIR PRODUCTS BLUE ENERGY, LLC

CIVIL ACTION NO.

*Plaintiff*

JUDGE

VERSUS

LIVINGSTON PARISH GOVERNMENT;  
LIVINGSTON PARISH COUNCIL

MAGISTRATE JUDGE

*Defendants.*

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**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

**NOW INTO COURT**, through undersigned counsel, comes Plaintiff, Air Products Blue Energy, LLC (“Air Products”), which files this Verified Complaint seeking a judgment declaring that Livingston Parish Ordinance “No. 22-49” (“L.P. Ordinance No. 22-49”)<sup>1</sup> is invalid and unenforceable, and providing injunctive relief to bar the enforcement of L.P. Ordinance No. 22-49. Through L.P. Ordinance No. 22-49, Livingston Parish attempts to improperly place a 12-month moratorium on the construction and drilling of Class V wells, as well as seismic surveying within Livingston Parish. These actions are preempted by federal and state law.

**INTRODUCTION**

**1.**

Air Products is compelled to bring this litigation in order to demonstrate the invalidity of L.P. Ordinance No. 22-49. On October 13, 2022, the Livingston Parish Council adopted L.P. Ordinance No. 22-49 by a vote of 5-2 and submitted it to the Parish President, who has 10 days to

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<sup>1</sup> [https://www.livingstonparishcouncil.com/sites/default/files/fileattachments/parish\\_council/page/14583/class\\_v\\_moratorium.pdf](https://www.livingstonparishcouncil.com/sites/default/files/fileattachments/parish_council/page/14583/class_v_moratorium.pdf) (last visited Oct. 17, 2022).

approve or veto the ordinance or, if neither occurs, the ordinance is deemed adopted after October 23, 2022. (It will take effect 15 days after (a) it is approved by the President or (b) the expiration of the 10th day without presidential signature or approval.<sup>2</sup>) Prior to voting on the ordinance, Livingston Parish Council members acknowledged that their attorney advised them that (1) “it’s illegal” and (2) they “have no jurisdiction.” Notwithstanding that legal advice, the Council passed L.P. Ordinance No. 22-49.

**2.**

This ordinance, if allowed to take effect, will directly contravene the authority of the Louisiana Legislature, the Louisiana Department of Wildlife and Fisheries (“LDWF”), the Louisiana State Mineral and Energy Board, the U.S Army Corps of Engineers, and the U.S. Environmental Protection Agency, among others. It will also introduce uncertainty into a tightly structured and coordinated state and federal regulatory scheme.

**3.**

Additionally, L.P. Ordinance No. 22-49 appears to contradict the Parish’s prior ordinance, L.P. Ordinance No. 22-45, which purports to place a twelve-month moratorium on construction of Class VI injection wells in Livingston Parish. Regardless of whether this prior moratorium is legally enforceable, its stated purposes included allowing time for development of extensive site characterization requirements and other feasibility and safety-related matters. Yet, the Parish’s current moratorium, L.P. Ordinance No. 22-49, purports to block the very activities (Class V test wells and seismic testing) which would address the safety concerns expressed in the prior moratorium. In other words, the very actions that must be taken to achieve the purposes of L.P.

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<sup>2</sup> Livingston Parish Home Rule Charter §§ 2-13(B), 2-12(C). If the President vetoes the ordinance, the Council will likely override his veto by a two-thirds vote, and the ordinance will take effect 15 days thereafter. *Id.*, § 2-13(C).

Ordinance No. 22-45 will purportedly violate L.P. Ordinance No. 22-49.

**4.**

In light of the acknowledged invalidity of L.P. Ordinance No. 22-49, and its conflict with the numerous state and federal statutes, regulations, and permitting authorities, Air Products is left with no choice but to bring this lawsuit.

**PARTIES**

**5.**

Plaintiff herein is **Air Products Blue Energy, LLC**, a Delaware limited liability company, with Air Products and Chemicals, Inc., being its sole member. Air Products and Chemicals, Inc., is a Delaware corporation with its principal place of business located in Pennsylvania.

**6.**

Made defendant herein is **Livingston Parish Government**, a political subdivision of the State of Louisiana, and therefore, a citizen of Louisiana for purposes of diversity-of-citizenship jurisdiction.

**7.**

Made defendant herein is **Livingston Parish Council**, a political subdivision of the State of Louisiana, and therefore, a citizen of Louisiana for purposes of diversity-of-citizenship jurisdiction.

**JURISDICTION AND VENUE**

**8.**

This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332 (diversity-of-citizenship jurisdiction).

**9.**

Air Products is a citizen of Delaware and Pennsylvania, whereas the defendants are each citizens of Louisiana.

**10.**

Accordingly, there is complete diversity between the parties.

**11.**

Furthermore, the amount in controversy exceeds \$75,000, as the value of Air Products' rights to be protected and the extent of the injury to be prevented exceeds \$75,000.

**12.**

This Court also has original jurisdiction over this case pursuant to 28 U.S.C. § 1331 (federal question jurisdiction).

**13.**

Air Products is asserting claims that arise under federal law, including the Safe Drinking Water Act, 42 U.S.C. § 300f, *et seq.*, and this Court has supplemental jurisdiction over any state law claims pursuant to 28 U.S.C. § 1367.

**14.**

Air Products also seeks equitable relief and a declaratory judgment pursuant to 28 U.S.C. § 2201 and § 2202.

**15.**

Venue in this federal district is appropriate under 28 U.S.C. § 1391(b)(2), because “a substantial part of the events or omissions giving rise to the claim occurred” in Livingston Parish.

## FACTUAL BACKGROUND

### The Carbon-Dioxide Storage Agreement

#### 16.

Effective October 13, 2021, Air Products entered into a Carbon Dioxide Storage Agreement with the State of Louisiana, LDWF, and the Louisiana Wildlife & Fisheries Commission, acting through its authorized agent, the Louisiana State Mineral and Energy Board, “for the purpose of injecting Carbon Dioxide into certain geologic strata or formations for permanent storage” (the “Storage Agreement”).<sup>3</sup>

#### 17.

Pursuant to the terms of the Storage Agreement, the State granted Air Products the following rights, among others:

the sole and exclusive right to control, conduct, or perform all activities on the Property as may be necessary or incidental to the Permitted Purposes, including, but not limited to . . . viewing and performing testing, **such as geological and geophysical surveys, seismic tests, and other testing** and data relating to the Property and Storage Reservoirs to determine the capacity and suitability of the Storage Reservoirs and the Property for the Permitted Purposes.<sup>4</sup>

#### 18.

Among the land and water bottoms included in the Storage Agreement were state-owned water bottoms in Lake Maurepas, part of which is in Livingston Parish.

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<sup>3</sup> [http://www.dnr.louisiana.gov/assets/OMR/media/forms\\_pubs/AIR\\_PRODUCTS\\_FINAL\\_AGREEMENT\\_10-22-2021.pdf](http://www.dnr.louisiana.gov/assets/OMR/media/forms_pubs/AIR_PRODUCTS_FINAL_AGREEMENT_10-22-2021.pdf) (last visited Oct. 18, 2022).

<sup>4</sup> Carbon–Dioxide Storage Agreement, dated October 13, 2021, § 5(k) (emphasis added). “Permitted Purposes” means “the right to use the Property for all purposes and rights granted in this Agreement, including, without limitation, the sole and exclusive right to use and occupy the Property for the purposes and rights set forth in this Agreement, and the full control of all operations in connection with the construction, preparation, installation, maintenance, operation, expansion, enlargement, modification, replacement, repair, and disposition of the Facilities, Injecting any Carbon Dioxide Stream into the Storage Reservoirs, the installation, maintenance, repair, replacement and removal of Improvements and Equipment, the Injection, Storage, transportation, shipment, handling, transmission, Withdrawal, or other disposition of Carbon Dioxide Stream(s) Stored, or to be Stored from time to time, in each Facility, and monitoring each Facility and/or Storage Reservoirs.” *Id.*, § 5.4.

**19.**

In conjunction with the Storage Agreement, Air Products announced a \$4.5 billion investment to construct a state-of-the-art, clean energy complex in Louisiana.

**20.**

Planned to be online by 2026, the project supports Louisiana's ambitious climate, energy, and economic competitiveness goals.

**21.**

Once fully operational, the clean energy complex will produce clean hydrogen for Air Products' customers in the U.S. Gulf Coast, as well as clean ammonia.

**22.**

In connection with the project, Air Products plans to permanently sequester approximately 5 million metric tons of carbon dioxide ("CO<sub>2</sub>") per year.

**23.**

The U.S. Department of Energy states that carbon capture and sequestration "enables industry to continue to operate while emitting fewer greenhouse gases (GHGs), making it a powerful tool for addressing mitigation of anthropogenic CO<sub>2</sub> in the atmosphere."<sup>5</sup>

**24.**

Large-scale, commercial carbon capture and sequestration projects have been operating for many years in North America and Europe, and many other projects are currently being developed.<sup>6</sup>

**25.**

Air Products' project is estimated to create 170 permanent jobs in Louisiana, with a total

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<sup>5</sup> <https://netl.doe.gov/carbon-management/carbon-storage/faqs/carbon-storage-faqs>.

<sup>6</sup> *Id.*

annual payroll of approximately \$15.9 million, in addition to more than 2,000 construction jobs over a three-year period.

**26.**

The proposed permanent sequestration area for CO<sub>2</sub> would be approximately one mile beneath the bottom of Lake Maurepas, part of which is located in Livingston Parish.

**Air Products' Proposed Project**

**27.**

In connection with the proposed project, a subsurface survey of Lake Maurepas is planned to take place beginning October of 2022 through Spring of 2023. This survey will provide data to help Air Products examine the feasibility of carbon sequestration beneath Lake Maurepas. The survey will also help state and federal regulating agencies evaluate whether permits should be granted for carbon sequestration beneath Lake Maurepas.

**28.**

In this case, the subsurface or seismic survey will involve a three-dimensional (“3D”) visual inspection of underground geology to assess the feasibility of the subsurface geology for permanent CO<sub>2</sub> storage and to identify the best places to permanently store CO<sub>2</sub>.

**29.**

Seismic surveying uses sound waves to produce 3D images of underground geological structures and has been used safely for decades in Louisiana in connection with oil and gas exploration.

**30.**

In connection with Air Products' project, these sound waves will be produced using small charges which are placed 60 feet beneath the water bottom.

**31.**

The charges are used one at a time, and the planned size of charges for the project is only a quarter of the size allowed by regulation to safely conduct a subsurface survey.

**32.**

The 3D seismic testing is planned to be conducted in six phases, so that most of Lake Maurepas is left completely open for commercial and recreational use during each phase of the testing. The testing plan also seeks to avoid any disruption to spring and summer boating seasons on Lake Maurepas.

**33.**

Once the seismic survey is complete, there will be no trace left behind.

**34.**

To conduct the seismic surveying operations, Air Products' seismic contractor—Exodus, Inc. (“Exodus”)—obtained a Permit to Conduct Geophysical and Geological Surveys on State Owned Lands and Water Bottoms (Permit No. 2022/23-001) from the State Mineral and Energy Board on September 30, 2022.

**35.**

The Permit to Conduct Geophysical and Geological Surveys on State Owned Lands and Water Bottoms permits seismic surveying work to be conducted in Lake Maurepas, which is a state-owned water bottom.

**36.**

Additionally, Air Products' seismic contractor Exodus obtained a Seismic Letter of Clearance from LDWF on September 29, 2022, as well as an Authorization of Seismic Operations, pursuant to La. Admin. Code tit. 76, p. 1, section 301, on October 3, 2022, permitting Exodus to

conduct seismic operations in Livingston Parish in connection with Air Products' project.

**37.**

Accordingly, Air Products, through its seismic contractor, is fully permitted by the State of Louisiana to conduct seismic operations on the state-owned water bottoms of Lake Maurepas and the surrounding area.

**38.**

In addition to the seismic survey, Air Products has begun preparatory work to install two Class V stratigraphic test wells on Lake Maurepas.

**39.**

The purpose of these stratigraphic test wells is to further assess the geology beneath Lake Maurepas in connection with the possible permanent sequestration of CO<sub>2</sub>.

**40.**

Portions of the work relating to both the seismic testing and the Class V wells are expected to fall within the boundaries of Livingston Parish.

**41.**

Air Products received the necessary permits to conduct this Class V test well preparatory work from the U.S. Army Corps of Engineers and the Louisiana Office of Coastal Management.

**42.**

Activities related to both the planned seismic testing and the drilling of Class V test wells are scheduled to take place within the moratorium period set forth in L.P. Ordinance No. 22-49.

**43.**

The moratorium, if left in place, will improperly restrict Air Products' lawfully-permitted activities and improperly impair Air Products' lawful contractual rights and obligations.

**L.P. Ordinance No. 22-49**

**44.**

Livingston Parish is a Council-President Home Rule Charter form of government, which allows for two branches of government; the Executive Branch or Parish President, and the Legislative Branch or Parish Council.

**45.**

Livingston Parish currently has 10 elected officials—one Parish President and nine Council Members.

**46.**

At the Livingston Parish Council meeting on October 13, 2022, the Livingston Parish Council voted to adopt L.P. Ordinance No. 22-49 by a vote of 5-2 in favor of passage (two council members were absent).

**47.**

During the Council meeting, the Council acknowledged a letter sent to the Council by the parish attorney advising that the proposed ordinance covered matters “not under their jurisdiction”<sup>7</sup> and would be invalid if passed.

**48.**

The preamble to L.P. Ordinance No. 22-49 reads as follows:

AN ORDINANCE TO ADOPT A TEMPORARY TWELVE (12) MONTH MORATORIUM REGARDING THE CONSTRUCTION AND DRILLING OF CLASS V INJECTION WELLS AND MONITORING WELLS PROHIBITING ANY ACTIVITIES ASSOCIATED WITH CLASS V WELLS WHERE THE WELL IS SPECIFIC TO GEOLOGIC TESTING OF ROCK FORMATION, MONITORING, DRILLING, OR INJECTING OF CO2 FOR LONG TERM STORAGE. THIS SHALL INCLUDE THE PROHIBITION OF ALL

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<sup>7</sup> [https://www.theadvocate.com/baton\\_rouge/news/article\\_cfbe392c-4b22-11ed-956a-f7fa7d94b2b2.html](https://www.theadvocate.com/baton_rouge/news/article_cfbe392c-4b22-11ed-956a-f7fa7d94b2b2.html) (last visited Oct. 17, 2022).

ACTIVITIES WITHIN LIVINGSTON PARISH AND THE WATERWAYS HEREIN; INCLUDING BUT NOT LIMITED TO DETONATION OF CHARGES FOR SEISMIC TESTING, DRILLING, OR INJECTING OF LIQUIDS INTO A CLASS V WELL WITHIN THE PARISH OF LIVINGSTON.

**49.**

Thus, under the terms of its preamble, L.P. Ordinance No. 22-49 purports to be a 12-month moratorium on (1) the construction and drilling of Class V injection and monitoring wells within Livingston Parish, and (2) the detonation of charges for seismic surveying and testing within Livingston Parish.

**50.**

Similarly, under the terms of its resolving paragraph, L.P. Ordinance No. 22-49 purports to “HEREBY ENACT[] A TEMPORARY MORATORIUM FOR TWELVE (12) MONTHS to further evaluate the permitting needs of the Parish of Livingston to establish regulations that would permit such activities within the Parish of Livingston and its waterways.”

**51.**

However, under the terms of the ordaining paragraph of L.P. Ordinance No. 22-49, the Council purports to ordain “as of the effective date of this ordinance, a moratorium on the construction, drilling, and monitoring of injections wells and disposal wells including but not limited to the waterways of Livingston Parish.”

**52.**

In addition to being preempted by federal and state law, the inconsistencies between the various statements of effect, including both scope and duration, likely void the ordinance for vagueness.

**53.**

L.P. Ordinance No. 22-49 contains other defects that may render it unenforceable. For

example, it does not purport to amend the Livingston Parish Code of Ordinances, as required by Louisiana law.

**54.**

In addition, L.P. Ordinance No. 22-49 uses both the language of a non-binding resolution and the language specific to a binding ordinance. As a result, some portions of the ordinance may lack the force of law.

**CAUSE OF ACTION NO. 1**

**DECLARATORY JUDGMENT REGARDING INVALIDITY OF L.P. ORDINANCE NO. 22-49 AS APPLIED TO SEISMIC SURVEYS AND TESTING**

**55.**

L.P. Ordinance No. 22-49 is preempted by Louisiana state law, insofar as it bans seismic surveys and testing within Livingston Parish.

**56.**

Pursuant to Louisiana Constitution Article VI, a municipal authority governed by a home rule charter, such as Livingston Parish, possesses powers in affairs of local concern within its jurisdiction that are as broad as those of the State, except when limited by the constitution, laws permitted by the constitution, or its own home rule charter.

**57.**

Article VI, § 9(B) of the Louisiana Constitution sets forth a constitutional limitation on the broad powers of a home rule charter government when it states: “Police Power Not Abridged. Notwithstanding any provision of this Article, the police power of the state shall never be abridged.”

**58.**

Louisiana courts routinely acknowledge the constitutional police power vested in the

Louisiana Legislature.

**59.**

Moreover, Article XI § 1 of the Louisiana Constitution states:

The natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people. **The legislature shall enact laws to implement this policy.**<sup>8</sup>

**60.**

Pursuant to the Louisiana Revised Statutes, the Louisiana Legislature bestowed the State Mineral and Energy Board with the power to regulate all seismic surveys on state-owned lands:

**The State Mineral and Energy Board shall have exclusive authority to grant exclusive and nonexclusive permits to conduct geophysical and geological surveys of any kind on state-owned lands, including water bottoms.** No person shall conduct a geophysical or geological survey on state-owned lands, including water bottoms, without obtaining a permit. These permits shall be granted pursuant to rules promulgated under the provisions of the Administrative Procedure Act by the Department of Natural Resources. No permit shall be granted covering lands over which the state has a mere servitude without consent of the owner of the abutting property.<sup>9</sup>

**61.**

The term “geophysical and geological survey” is defined to mean:

magnetometer surveys, gravimeter surveys, torsion balance surveys, **seismograph surveys, using either the reflection or the refraction method**, soil analysis surveys which tend to show the presence or absence of hydrocarbons, electrical surveys, using either the Eltran or some similar method and any method utilizing short wave radio.<sup>10</sup>

**62.**

With regard to seismic surveys, the Louisiana Legislature also bestowed LDWF with the

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<sup>8</sup> (emphasis added).

<sup>9</sup> La. R.S. § 30:212(A) (emphasis added).

<sup>10</sup> La. R.S. § 30:211(B) (emphasis added).

power to regulate seismic activity.

**63.**

LDWF is charged with “[t]he control and supervision of the wildlife of the state, including all aquatic life” under Article IX, Section 7 of the Louisiana Constitution of 1974.

**64.**

Pursuant thereto, La. R.S. § 30:214 states:

Any person who makes or causes to be made a geophysical survey entailing the use of shot points in any lake, river, or stream bed or other bottoms, the title to which is in the public, shall obtain from the State Mineral and Energy Board a special permit therefor. **This permit shall be granted under the rules and regulations which may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife.**<sup>11</sup>

**65.**

Furthermore, La. R.S. § 36:609(B)(2) states that the Office of Wildlife, within LDWF “shall . . . [p]erform the functions of the state relative to the administration, operation, and law enforcement of programs, including . . . the regulation of seismic operations.”

**66.**

And the Louisiana Administrative Code, Title 76, Section 301(B) states:

In order to protect, conserve, and replenish the wildlife of the state of Louisiana, including all aquatic life, and pursuant to the authority conferred by Article IX, Section 7 of the Louisiana Constitution of 1974, R.S. 30:214 et seq., and R.S. 36:609; the following rules shall form and after promulgation date, govern any exploration work involving the discharge of explosives and other energy sources in the state of Louisiana for geophysical exploration . . . No geophysical exploration work shall commence without the approval of the secretary of the department or his designee. The Department of Wildlife and Fisheries, Marine Fisheries Division, Seismic Section is hereby authorized and directed to enforce and administer these regulations with full power and authority to take all appropriate actions to ensure proper administration and compliance.

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<sup>11</sup> (emphasis added).

**67.**

The decision of the Louisiana Legislature to place permitting authority for seismic (i.e., geophysical) surveys in the hand of the State Mineral and Energy Board and LDWF supersedes and preempts any local ordinance to the contrary.

**68.**

Accordingly, L.P. Ordinance No. 22-49 is preempted and invalid insofar as it concerns seismic surveys within Livingston Parish, because the Louisiana Constitution provides the Legislature with the preemptive police power of the State, which includes the authority to regulate such activities within Louisiana. The Legislature expressly designated the State Mineral and Energy Board and LDWF as the state agencies to exercise this authority. L.P. Ordinance No. 22-49 abridges police power of the State by purporting to regulate these activities.

**69.**

Therefore, Air Products is entitled to a declaratory judgment declaring that L.P. Ordinance No. 22-49 is invalid insofar as it places a moratorium on seismic surveys within Livingston Parish in violation of the Louisiana Constitution and Louisiana statutes.

**CAUSE OF ACTION NO. 2**

**INJUNCTIVE RELIEF BARRING ENFORCEMENT OF L.P. ORDINANCE NO. 22-49  
AS APPLIED TO SEISMIC SURVEYS AND TESTING**

**70.**

Also, because L.P. Ordinance No. 22-49 is preempted and invalid under Louisiana law, Air Products is entitled to injunctive relief, including a temporary restraining order, a preliminary injunction, and a permanent injunction, barring the enforcement of L.P. Ordinance No. 22-49 insofar as it places a moratorium on seismic surveys within Livingston Parish.

**CAUSE OF ACTION NO. 3**

**DECLARATORY JUDGMENT REGARDING INVALIDITY OF L.P. ORDINANCE NO. 22-49 AS APPLIED TO CLASS V WELLS**

**71.**

The federal Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300f, *et seq.*, is a comprehensive regulatory program designed to protect underground sources of drinking water.

**72.**

The SDWA and associated regulations promulgated by the federal Environmental Protection Agency (“EPA”) fully occupy the field of regulating underground sources of drinking water.

**73.**

Under the SDWA, the EPA is required to develop underground-injection control program requirement in order to protect underground sources of drinking water.

**74.**

The EPA grants primary enforcement authority, also known as “primacy,” to a state in order to implement the state’s EPA-approved underground injection control (“UIC”) program.

**75.**

On April 23, 1982, the EPA granted primacy over Class I, II, III, IV, and V injection wells to the Louisiana Office of Conservation.

**76.**

Class V injection wells include stratigraphic test wells.

**77.**

In accordance with the grant of primacy, the Legislature granted the Louisiana Office of Conservation authority to regulate these wells, pursuant to the state’s EPA-approved UIC program,

including Class V injection wells.<sup>12</sup>

**78.**

The Office of Conservation's program is responsible for the administration, permitting, inspection, and enforcement activities for Class V injection wells under R.S. § 30:4.1, LAC 43:XVII, Subpart 1-4 and LAC 43:XIX, Subpart 1, Chapter 4.

**79.**

In the case of Class V injection wells, the State has expressly given the assistant secretary of the Office of Conservation the power to "regulate, by rules, the drilling, casing, cementing, disposal interval, monitoring, plugging, and permitting of disposal wells that are used to inject hazardous waste products in the subsurface." La. R.S. § 30:4.1(B).

**80.**

The Office of Conservation has promulgated comprehensive regulations approved by EPA to implement a Class V underground injection control program.

**81.**

The Louisiana Legislature's decision to expressly regulate an area of environmental law and place that regulatory power in a state agency supersedes any local ordinance to the contrary.

**82.**

By instituting a moratorium on Class V wells, L.P. Ordinance No. 22-49 expressly contravenes the provisions of the SDWA and Louisiana law and regulations that allow Class V wells, and thus, improperly interferes with the UIC program.

**83.**

Accordingly, L.P. Ordinance No. 22-49 is preempted under both federal and state law

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<sup>12</sup> See La. R.S. § 30:4.1.

insofar as it concerns Class V injection wells within Livingston Parish, and Air Products is therefore entitled to a declaratory judgment declaring that L.P. Ordinance No. 22-49 is invalid insofar as it concerns Class V injection wells.

**CAUSE OF ACTION NO. 4**

**INJUNCTIVE RELIEF BARRING ENFORCEMENT OF L.P. ORDINANCE NO. 22-49  
AS APPLIED TO CLASS V WELLS**

**84.**

Also, because L.P. Ordinance No. 22-49 is preempted and invalid under federal and Louisiana law, Air Products is entitled to injunctive relief, including a temporary restraining order, a preliminary injunction, and a permanent injunction, barring the enforcement of L.P. Ordinance No. 22-49 insofar as it concerns Class V wells.

**PRAYER FOR RELIEF**

**WHEREFORE**, after due proceedings are had, Air Products Blue Energy, LLC, respectfully requests that this court grants the following relief:

1. Declaring that L.P. Ordinance No. 22-49 is invalid as a matter of Louisiana law;
2. Declaring that L.P. Ordinance No. 22-49 is preempted under Louisiana law and invalid insofar as it places a moratorium on seismic surveys within Livingston Parish;
3. Declaring that L.P. Ordinance No. 22-49 is preempted under federal law and Louisiana law and invalid insofar as it concerns Class V wells within Livingston Parish;
4. Issuing any and all necessary injunctive relief to bar the enforcement of L.P. Ordinance No. 22-49 insofar as it places a moratorium on seismic surveys within Livingston Parish;
5. Issuing any and all necessary injunctive relief to bar the enforcement of L.P. Ordinance No. 22-49 insofar as it concerns Class V injection wells; and

6. Granting Air Products Blue Energy, LLC such further and additional relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Michael C. Drew

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UNITED STATES DISTRICT COURT  
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MAGISTRATE JUDGE

*Defendants.*

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**DECLARATION OF ANDREW CONNOLLY**

1. I am over 21 years of age and am competent to make the statements that appear in this declaration. I have personal knowledge of the facts included in this declaration and those facts are true and correct.
2. I am the Vice President and General Manager, Low-Carbon Hydrogen Large Projects, for Air Products and Chemicals, Inc., which is the sole member of Air Products Blue Energy, LLC.
3. I have read the allegations in the Verified Complaint for Declaratory and Injunctive Relief ("Complaint").
4. All allegations in the Complaint are true and correct to the best of my knowledge, information, and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18<sup>th</sup> day of October, 2022.

  
\_\_\_\_\_  
ANDREW CONNOLLY

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

AIR PRODUCTS BLUE ENERGY, LLC

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LIVINGSTON PARISH COUNCIL

MAGISTRATE JUDGE

*Defendants.*

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**DECLARATION OF KIMBERLY GOSLIN**

1. I am over 21 years of age and am competent to make the statements that appear in this declaration. I have personal knowledge of the facts included in this declaration and those facts are true and correct.
2. I am a Vice President of Air Products Blue Energy, LLC.
3. I have read the allegations in the Verified Complaint for Declaratory and Injunctive Relief ("Complaint").
4. All allegations in the Complaint are true and correct to the best of my knowledge, information, and belief.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18 day of October, 2022.

  
KIMBERLY GOSLIN