

**19TH JUDICIAL DISTRICT COURT FOR
THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA**

NO.

DIVISION “ ”

HEALTHY GULF, Petitioner,

Versus

**LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES, SECRETARY
MADISON SHEAHAN in her Official Capacity as SECRETARY OF THE LOUISIANA
DEPARTMENT OF WILDLIFE AND FISHERIES, LOUISIANA WILDLIFE AND
FISHERIES COMMISION, CHAIR KEVIN SAGRERA in his Official Capacity of
CHAIR OF THE LOUISIANA WILDLIFE AND FISHERIES, LOUISIANA STATE
MINERAL AND ENERGY BOARD, and CHAIR SIDNEY W. DEGAN, III, in his Official
Capacity as CHAIR OF THE LOUISIANA STATE MINERAL AND ENERGY BOARD,
Defendants.**

**FILED: _____
DEPUTY CLERK**

PETITION FOR PERMANENT INJUNCTION AND DECLARATORY RELIEF

Petitioner, Healthy Gulf, petitions the Court for declaratory and injunctive relief and avers as follows:

INTRODUCTION

1.

A Louisiana statute prevents state agencies from violating any term or condition of any donation of land which has been accepted by the State involving state wildlife management areas. La. R.S. § 56:765. Defendants—all agencies or agents of the State of Louisiana—issued a Letter of Clearance to Air Products Blue Energy, LLC, which, along with related agreements, authorizes Air Products to construct a carbon dioxide pipeline across the Maurepas Swamp Wildlife Management Area. The State’s authorization breaches the terms and conditions imposed by the donors of multiple tracts of land that make up the Maurepas Swamp Wildlife Management Area which is meant to be conserved and protected for wildlife management as well as recreational, hunting, and fishing uses. This act is in violation of La. R.S. § 56:765 which, in this context, protects wildlife management areas from industrial development and uses that would be inconsistent with conservation purposes. Further, this act is in excess of the Defendants’ legal authority.

2.

Petitioner, whose members access the Maurepas Swamp Wildlife Management Area to hunt, fish, recreate, and pursue hobbies and mission-driven work like photographic

documentation of the natural environment, seeks an injunction to prevent this illegal, ultra vires state action.

PARTIES

3.

Petitioner Healthy Gulf is a 501(c)(3) nonprofit organization headquartered in New Orleans, Louisiana. Healthy Gulf's organizational purpose is to collaborate with and serve communities who love the Gulf of Mexico by providing research, communications, and coalition-building tools needed to reverse the long-pattern of overexploitation of the Gulf's natural resources. Healthy Gulf has members and supporters who live, work, and recreate across the five Gulf states of Louisiana, Texas, Mississippi, Alabama, and Florida, and nationwide. Healthy Gulf's members and supporters include fishers, kayakers, canoers, landowners, and others who value and use the Maurepas Swamp WMA.

4.

Defendants are:

- (a) The Louisiana Department of Wildlife and Fisheries is an executive agency organized by and under the laws of the state of Louisiana;
- (b) Madison Sheahan is the Secretary of the Louisiana Department of Wildlife and Fisheries and is named in her official capacity as Secretary;
- (c) The Louisiana Wildlife and Fisheries Commission, an executive commission organized by and under the laws of the state of Louisiana;
- (d) Kevin Sagrera the Chair of the Louisiana Wildlife and Fisheries Commission and is named in his official capacity as Chair;
- (e) The Louisiana State Mineral and Energy Board, an executive board within the Louisiana Department of Energy and Natural Resources, organized by and under the laws of the state of Louisiana; and
- (f) Sidney W. Degan, III, is Chair of the State Mineral and Energy Board and is named in his official capacity as Chair.

JURISDICTION AND VENUE

5.

The Court has jurisdiction to declare rights, status, and other legal relations pursuant to Louisiana Code of Civil Procedure article 1871 and may issue injunctive relief under article 3601.

6.

Venue in this Court is proper pursuant to Louisiana Revised Statutes §§ 13:5104, 36:602, 56:7, and 30:121, which provides that lawsuits against these state agencies and subdivisions be filed in the judicial district encompassing Baton Rouge, Louisiana.

BACKGROUND

7.

Conservation Easements on the Maurepas Swamp WMA Prohibit Any Uses Inconsistent with Preservation and Conservation Purposes

The Maurepas Swamp WMA consists of multiple adjoining tracts of land along the edges of Lake Maurepas, acquired at different times by the Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission through either acts of donation or acts of sale. The Wildlife and Fisheries Commission, in conjunction with the Department of Wildlife and Fisheries, is the state agency charged with maintaining and managing the state's wildlife management areas, including the Maurepas Swamp WMA.

8.

The Maurepas Swamp WMA is over 100,000 acres in size.¹ The Maurepas Swamp WMA is primarily natural cypress tupelo swamp land and is used for hunting and fishing, camping, birding and wildlife viewing, and hiking. The most sought-after game species on the Maurepas Swamp WMA are white-tailed deer, squirrel, rabbit, and waterfowl, while common freshwater fish include largemouth bass, sunfish, and crappie. Healthy Gulf's members enjoy recreational, boating and fishing opportunities in the WMA.

9.

Figure 1, below, depicts the six tracts of land that make up the Maurepas Swamp WMA.

¹ Louisiana Wildlife and Fisheries, "Maurepas Swamp," <https://www.wlf.louisiana.gov/page/maurepas-swamp>

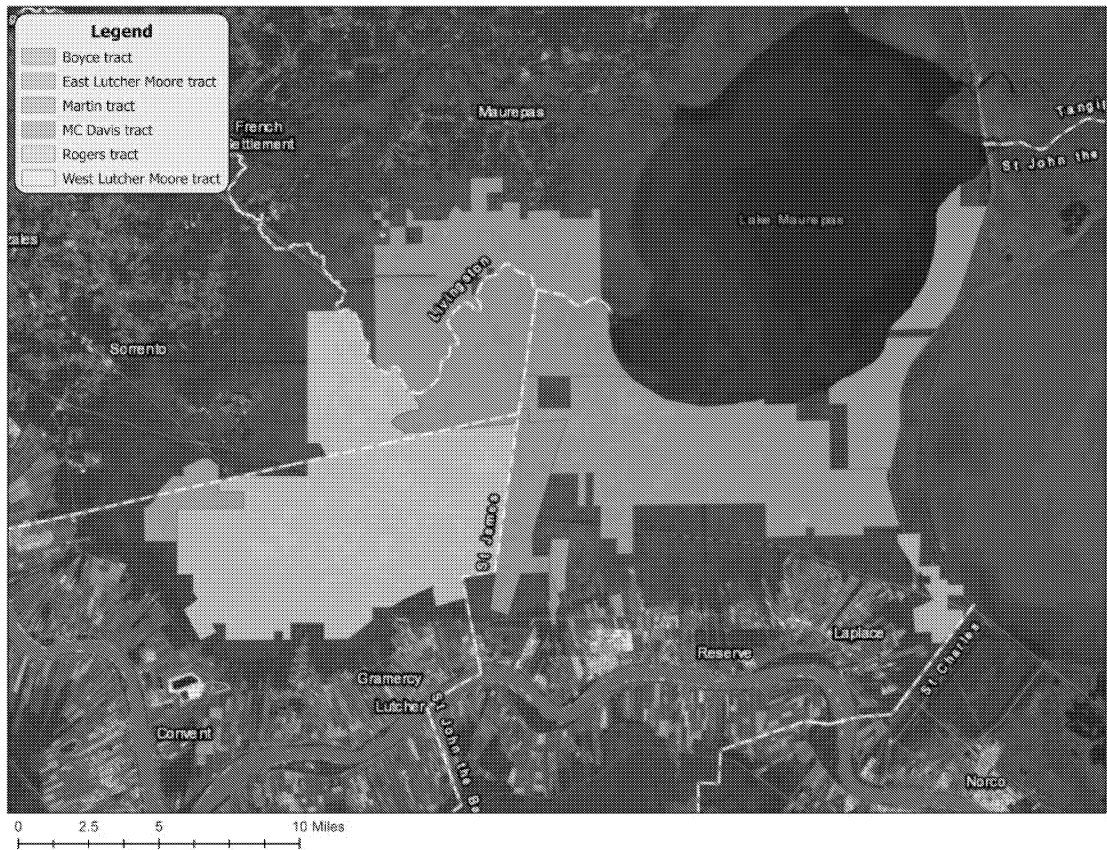


Figure 1. Tracts of Land that Comprise the Maurepas Swamp WMA

10.

These six tracts are, from west to east: the Boyce Tract, the West Lutch Moore Tract, the M C Davis Tract, the East Lutch Moore Tract, the Martin Tract, and the Rogers Tract. The last two of these—the Martin and Rogers Tracts—are not at issue in this litigation and will be discussed no further. The four tracts at issue in this case—the Boyce Tract, the West Lutch Moore Tract, the M. C. Davis Tract, and the East Lutch Moore Tract—each have land use restrictions and/or conservation easements agreed to by the State that require the land to be permanently set aside for protection, conservation, and preservation purposes and that prevent disruption of the wildlife area’s natural state. Further, each tract is encumbered by restrictions that either prohibit commercial and/or industrial development outright or that prohibit uses that would be inconsistent with the tract’s exclusive use for wildlife management, including protection, preservation, and conservation of habitat.

11.

All the relevant tracts’ mineral rights are held by private entities, not the State of Louisiana nor any of its agencies. All of the relevant tracts were donated or sold subject to pre-existing servitudes and rights-of-way, which were not conveyed to either the LDWF or the Commission.

12.

The East and West Lutch Moore Tracts

The Maurepas Swamp WMA was initially created by an act of donation in 2001 by the Richard Mellon Foundation, which donated two of the six tracts that now make up the Maurepas Swamp WMA, specifically the “West” and “East” Lutch Moore tracts. Air Products Blue Energy LLC’s (“Air Products”) proposed carbon dioxide pipeline at issue in this litigation will traverse both of these tracts. See Figure 2 below, which depicts Air Products’ plans for a pipeline traversing the relevant tracts of the Maurepas Swamp WMA, as set forth in its application for a Coastal Use Permit.

13.

The Richard Mellon Act of Donation, the relevant portion of which is attached hereto and incorporated for all purposes herein as Exhibit A, donated the two tracts of property to the Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission, and has terms and conditions that apply in perpetuity to both the East and West Lutch Moore tracts.

14.

Relevant language from the Richard Mellon Act of Donation includes the following:

The Property acquired shall be used exclusively for wildlife management purposes, and as such, shall be dedicated to the protection, conservation and management of and wildlife and their habitat, and such public recreation, including but not limited to, hunting, fishing and trapping, which is consistent with these purpose (collectively, “Wildlife Conservation use”), such restriction to remain in perpetuity pursuant to and in accordance with the Louisiana Constitution, Article 7, Section 10-A (“Restriction”) ...

Donor expressly excepts and reserves from this sale the entirety of all oil, gas and other minerals and mineral rights in, on and under the Property. In connection with and as a part of the foregoing reservation, Donor further reserves, for itself, successors and assigns, the rights: (i) to use the surface and subsurface of the Property by any and all means to investigate (by geographical operations or otherwise), explore for, drill and mine for, produce and remove oil, gas, salt, sulphur and other liquid, gaseous or solid minerals, or any one or more of them, whether similar or dissimilar (collectively "minerals"), in, under and from the Property and to store or transport any such minerals produced from the Property on, in, under or across the Property (herein collectively Donor's "Mineral Rights"), all without any prior consent from Donee.

15.

The Boyce Tract

The Boyce Tract was added in 2008 to the Maurepas Swamp WMA through an act of donation to the Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and

Fisheries Commission. Air Products' proposed carbon dioxide pipeline will traverse the Boyce Tract. See Figure 2 below. The Boyce Act of Donation, the relevant portion of which is attached hereto and incorporated for all purposes herein as Exhibit B, contains the following relevant language:

The Property donated shall be dedicated to the protection, conservation and preservation of wetlands in perpetuity. The Property is henceforth set aside and reserved in its natural state, and DONEE will take no action or allow any action not otherwise reserved herein which diminishes the Property's natural state or convert it to another use, which includes, but is not limited to, construction of any structure or structures on the Property; the cutting, burning, removal or destruction of native vegetation on the Property, except as required in preserving the Property's natural state, flora, fauna and/or wetland ecological character; the placing of any fill materials or objects on the Property, the building of roads on the Property; excavation or dredging of the Property; changing the elevations of or contours of the Property; in any way pumping or draining or causing the Property to be drained; the grazing of domestic livestock on the Property; allowing commercial, industrial or agricultural activities on the Property; or any other activity inconsistent with preserving the Property's natural state, flora, fauna and/or wetland ecological character. . .

DONEE shall have the right to manage and use the Property for wildlife management area purposes, including, but not limited to, hunting, commercial and recreational fishing, commercial and recreational trapping or other uses not inconsistent with the primary purpose of preservation of wetlands and the associated ecological functions and values. Subject to DONOR's reservation of all subsurface minerals and the provisions of La. R.S. 31:149, DONEE may alienate the Property by exchange for other immovable property of equal or greater wetland ecological function and value. . . .

DONOR reserves all of the subsurface minerals, including oil, gas and other hydrocarbon minerals and subsurface mineral rights presently owned by DONOR in or under the Property.

16.

The M.C. Davis Tract

The M.C. Davis tract was added to the Maurepas Swamp WMA in 2011 through an act of sale; the purchasers of the tract were the Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission. Air Products' proposed carbon dioxide pipeline will traverse the M.C. Davis Tract. See Figure 2 below. The relevant portion of the Act of Sale is attached hereto and incorporated for all purposes herein as Exhibit C.

17.

The act of sale to the Defendants included several restrictions on use of the property, including:

Except to the extent allowed in the exercise of the mineral interest retained by the Seller, the property shall be preserved in its natural state .Buyer is not required to perform any affirmative action to maintain said Property in its natural state, provided however, Buyer will not allow any action not otherwise reserved herein or take any affirmative action which diminishes the Property's natural state, converts it to another use, or allows any other activity inconsistent with preserving the Property's natural state, its flora and fauna, and its wetlands ecological character...

Buyer shall incorporate the Property into the Maurepas Wildlife Management Area. Buyer shall have the right to manage and use the Property for Wildlife Management Area purposes, which may include hunting, recreational or commercial fishing, recreational or commercial trapping, or other appropriate Wildlife Management Area uses consistent with these purposes and Deed Restrictions. Said use shall remain in perpetuity.

[Seller] will retain mineral ownership of the Property (hereinafter, referred to as the "MC Davis tract"), in perpetuity . . .

LDWF will manage and where practical enhance the habitat conditions of the forested wetland for wildlife and fishery resources and public users.

18.

The M. C. Davis tract was purchased with federal funds granted to the State from Coastal Impact Assistance Program (CIAP), which provides grants to states for the conservation, protection and preservation of coastal areas, including wetlands, which was reflected in the restrictions on the property sale document:

This Property has been acquired with funds from a federal financial assistance award, the. Title of the Property conveyed by this deed shall vest in the Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission, subject to the condition that the Property shall be managed consistent with the purposes for which it was entered into under CIAP, and shall not convert to other uses.

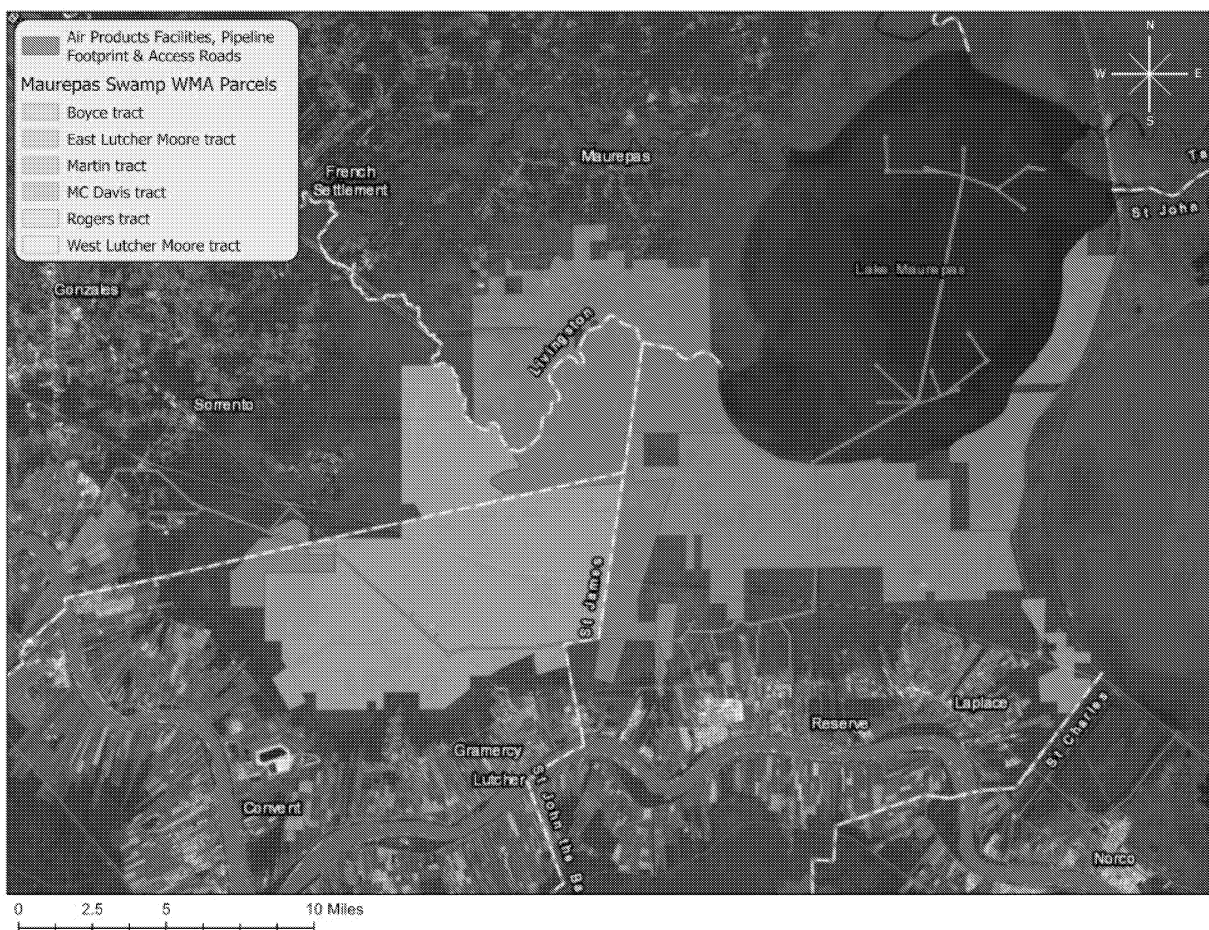


Figure 1 Air Products Pipeline Traversing the Four Relevant Tracts of the Maurepas Swamp WMA

19.

Conservation Easements on these Tracts that Prohibit Commercial/Industrial Development and Inconsistent Uses Have Not Been Altered

Upon information and belief, the LDWF and the Commission have not acquired additional rights or modified the restrictions and covenants agreed to in the acts of donation and the single act of sale for the four relevant tracts pertaining to the allowed uses of the tracts that compose the Maurepas Swamp WMA.

20.

The LDWF has attempted to obtain a donation of the mineral rights associated with the Richard Mellon tracts but, upon information and belief, it has not accomplished such a donation.

The State's Agreements Purport to Grant Authority to Conduct Pipeline Construction Activity on the Maurepas Swamp WMA, in Contravention of State Statute

21.

The Inter-Agency Agreement Premises Its Authority on La. R.S. § 30:148.1

In anticipation of the development of the State's carbon capture and storage infrastructure, along with the continuing development of the State's mineral resources, the LDWF and the Commission entered into an agreement with the State Mineral and Energy Board, the "Inter-Agency Agreement," attached hereto as Exhibit D and incorporated for all purposes herein. The Inter-Agency Agreement became effective July 1, 2020, and expires June 30, 2025.

22.

The Inter-Agency Agreement relies on La. R.S. § 30:148.1, *et seq.*, for its authority to lease lands belonging to the State to lessees for their use of the surface and/or underground reservoirs for the injection and storage of carbon dioxide, among other uses. The Inter-Agency Agreement purports to grant lessees the rights to drill wells for injection, storage, and withdrawal of carbon dioxide in underground reservoirs. La. R.S. § 30:148.2 grants authority to the State Mineral and Energy Board to lease lands for mineral development and associated activities.

23.

In the Inter-Agency Agreement, the LDWF "requested that the [State Mineral and Energy] Board negotiate, award, administer and manage the existing and future oil and gas leases, operating agreements, storage agreements and related activities/operations on DWF

Agency Lands, and the Board, through DNR, has agreed to perform such services.” (Emphasis added).²

24.

Related activities and operations involve the leasing of lands for the injection, storage, withdrawal, transportation, and shipping of carbon dioxide. This includes the construction of associated pipelines.

25.

The Mineral and Energy Board agreed to act as the LDWF and the Commission’s agent for purposes of handling carbon capture and storage projects, agreeing to “[m]anage and administer the carbon dioxide storage lease acquisition process by . . . awarding, issuing and executing leases and operating agreements in accordance with applicable law on behalf of DWF.”³

26.

The Carbon Storage Agreement Ignores La. R.S. § 56:765 Which Is Meant to Protect the Integrity of Wildlife Management Areas

On October 13, 2021, the Board, on behalf of LDWF and the Commission, entered into an agreement with Air Products for carbon dioxide storage (the “Storage Agreement”), the relevant portion of which is attached hereto and incorporated for all purposes herein as Exhibit E, “for the purpose of injecting Carbon Dioxide into certain geological strata or formation for permanent storage, in the general vicinity of Storage Reservoirs.”

27.

The Storage Agreement granted Air Products the right to construct pipelines, including pipelines for carbon dioxide transport, through “Specific Area of Interest A,” which is described in the agreement as “a tract, title to which is in the State, through the Louisiana Department of Wildlife & Fisheries, and includes all of the lands of the Maurepas Swamp Wildlife Management Area situated in St. James Parish, Louisiana.”

28.

The Carbon Storage Agreement stipulated that 33,146 acres located in the Canal Bank area of the Maurepas Swamp WMA and another 57,100 acres consisting of Lake Maurepas

² Inter-Agency Agreement, attached hereto and incorporated herein, pg. 3.

³ Inter-Agency Agreement pg. 5.

itself, “Special Area of Interest B,” were two properties subject to the terms of the Storage Agreement.⁴

29.

In granting Air Products the right to construct a pipeline through the Maurepas WMA, the State signatories to the Storage Agreement fail to acknowledge that Louisiana law specifically prevents state agencies from entering into agreements that would breach any term or condition of any donation which has been accepted by the state involving any wildlife management area.

30.

Specifically, La. R.S. § 56:765 states that, “[t]he provisions of R.S. 30:148.1-148.7 and R.S. 47:648.1 shall not authorize the breach of any term or condition of any donation which has been accepted by the state involving...wildlife management area[s]...”

31.

The Storage Agreement allows Air Products to transport, inject, and store carbon dioxide stream beneath these two properties in pipelines and reservoirs.⁵

32.

The Storage Agreement did not mention or incorporate the restrictions on use of the Maurepas Swamp WMA property or the agreements made by the State agencies to maintain the property in its natural state in perpetuity.

33.

The Storage Agreement did not mention that the acts of donation encompassing the East and West Lucher Moore tracts and the Boyce tract prevent new commercial and industrial use of the property and/or uses that are not exclusive for wildlife management purposes like protection, conservation, and public recreation.

34.

The Storage Agreement did not mention that the State agencies did not own and could not convey the mineral rights or any subsurface rights to the tracts within the Maurepas Swamp WMA, nor could they own or convey any rights to pre-existing rights of way within the Maurepas Swamp WMA.

⁴ Carbon Storage Agreement pg. 3.

⁵ Carbon Storage Agreement pg. 3-6.

35.

The Storage Agreement did not mention that the LDWF and Commission purchased the M. C. Davis tract using federal funds that were contingent on protection of that land for conservation purposes and uses only.

36.

The Storage Agreement purports to grant Air Products the right to construct a pipeline through the Maurepas WMA despite the fact that the State parties did not possess such rights of construction, development, or subsurface use to grant to Air Products.

37.

Additionally, the Carbon Storage Agreement contains numerous provisions that address pipelines, the most relevant of which include the following:

- a. Pipelines are included in the definition of improvements and equipment.⁶
- b. Air Products must pay the State for pipelines installed on rights-of-way on land. The Carbon Storage Agreement specifically does not address rights-of-way outside the properties covered by the Carbon Storage Agreement.⁷
- c. Air Products' incidental rights are defined and include the right to control, conduct, or perform all activities including, but not limited to, constructing, operating, and maintaining pipelines for the transport of carbon dioxide streams.⁸
- d. Air Products must consult with LDWF in advance regarding the timing of activities for pipelines within the Maurepas Swamp WMA.⁹
- e. Air Products shall obtain pipeline right-of-way agreements from LDWF prior to installation of pipelines.¹⁰
- f. Air Products is permitted to abandon in place proposed pipelines or their segments, including entering into a Pipeline Abandonment and ROW Release Agreement with LDWF.¹¹

⁶ Carbon Storage Agreement, attached hereto and incorporated herein, pg. 5.

⁷ *Id.* pg. 12-13.

⁸ *Id.* pg. 15-16.

⁹ *Id.* pg. 39.

¹⁰ *Id.* pg. 40-41.

¹¹ *Id.* pg. 41.

Air Products' Proposed Pipeline Route Will Violate the Terms of the Various Instruments that Established the Maurepas Swamp WMA

38.

Air Products is seeking permits to construct a facility in Ascension Parish. The facility is planned as a “blue” hydrogen and ammonia facility that proposes to capture carbon dioxide emissions and transport them into storage beneath Lake Maurepas to the east.

39.

As part of the planned project, Air Products proposes to construct a carbon dioxide pipeline that would run from the facility location in Ascension Parish on the Mississippi River to a (proposed) compressed carbon storage facility to be located under Lake Maurepas as demonstrated in Figure 3 below:

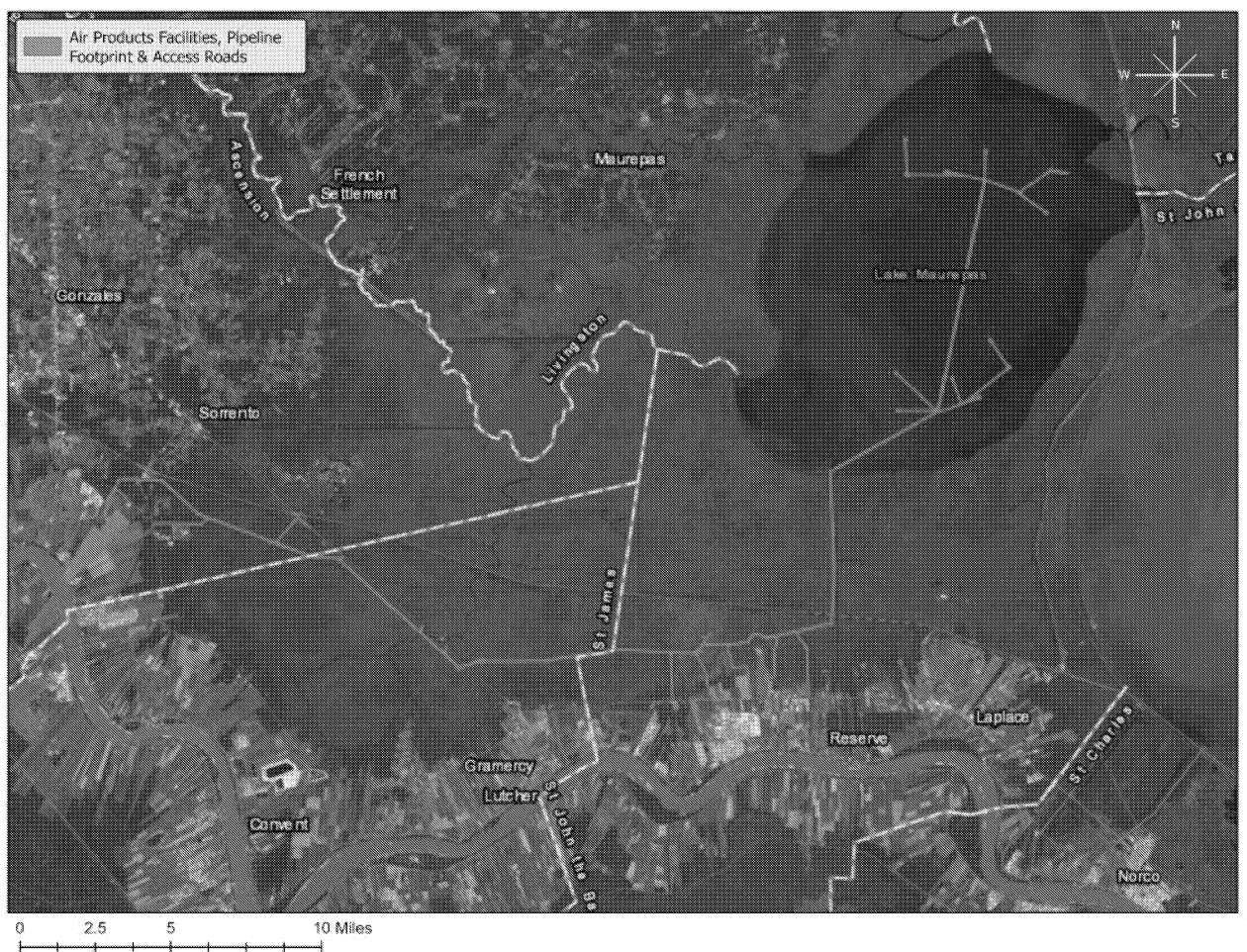


Figure 3 Map of Air Products Blue Hydrogen and Ammonia Facility and the Carbon Dioxide Pipeline Route, with Access Roads, from Ascension Parish to Lake Maurepas

40.

The proposed carbon dioxide pipeline would be 39.8 miles long and much of its planned route between the facility and the Lake Maurepas carbon storage caverns would traverse the Maurepas Swamp WMA.

41.

As part of the Air Products Coastal Use Permit application process, the LDWF issued a Letter of Clearance to Air Products, attached hereto as Exhibit F and incorporated herein. The Letter of Clearance states it “serves to establish permit conditions” for the proposed pipeline and requires that Air Products obtain servitudes for disrupting the surface conditions and to mitigate any wetlands losses.

42.

The Letter of Clearance requires mitigation for wetlands impacts, acknowledging that the pipeline construction will negatively impact the wetlands of the Maurepas Swamp WMA.

43.

The Letter of Clearance requires that Air Products pay for any property damaged by the project, acknowledging that the pipeline construction may damage the property.

44.

Neither the Letter of Clearance nor the Carbon Storage Agreement dictate the location of the pipeline’s path through the Maurepas Swamp WMA, nor do they restrict it to existing rights-of-way, which, upon information and belief, exist on some but not all of the proposed pipeline route.

45.

Air Products’ planned pipeline is violative of the restrictions and conservation easement terms of the various donation and acquisition instruments that established the Maurepas Swamp WMA for conservation purposes.

46.

First, the Air Products pipeline route through the Boyce Tract violates the terms of the Boyce Act of Donation, which set the tract aside in its natural state, and which do not permit any activity which would diminish that state or convert it to another use, including building structures, excavating or dredging the Boyce Tract, changing its elevations or contours, and, most importantly, allowing commercial, industrial, or any activity inconsistent with preserving the Boyce Tract’s natural state, flora, fauna, and wetland ecological character. The Boyce Tract is to be managed for certain purposes only, including hunting, fishing, and trapping. See Figure 2 above.

Next, the Air Products pipeline route through the East and West Lutch Moore tracts also violates the terms of the Richard Mellon Act of Donation, which set aside these two tracts and established their exclusive use for wildlife management purposes, including the protection, conservation, and management of habitat, in perpetuity. See Figure 2 above and Figure 4 below. Further, the Richard Mellon Act of Donation also established that these tracts shall be used for public recreation activities like hunting, fishing, and trapping.



Figure 4. Air Products Proposed Pipeline Route Traversing the East Lutch Moore, M.C. Davis, and West Lutch Moore Tracts (pink line)

Finally, the Air Products pipeline route violates the terms of the Act of Sale for the M.C. Davis Tract, whose natural resources are supposed to be maintained, conserved, and enhanced for recreational activities including hunting, fishing, and trapping. Further, the Air Products pipeline route will diminish the natural state of the M.C. Davis Tract and allow activities that are inconsistent with preserving the M.C. Davis Tract's natural state, its flora and fauna, and its wetlands ecological character. See Figures 2 and 4 above.

**CLAIM ONE:
The Defendants' Breach of the Terms and Conditions of the Acts of Donation Violates
State Law**

49.

Pursuant to La. R.S. § 56:765, “[t]he provisions of R.S. 30:148.1 - 148.7 and R.S. 47:648.1 shall not authorize the breach of any term or condition of any donation which has been accepted by the state involving any state wildlife refuge, wildlife management area, or public hunting ground.”

50.

The referenced statutes, La. R.S. §§ 30:148.1 – 148.7 and La. R.S. § 47:648.1, give the State the right to lease state lands for the development of mineral rights.

51.

Per La R.S. § 56:765, however, the State’s ability to lease State lands for mineral development does not supersede the prohibition against breaching any term or condition of any donation involving a wildlife management area. The State and its agencies may not agree to breach the terms or conditions of any accepted donation of WMA land even when entering into an agreement under La. R.S. §30:148.

52.

The LDWF and the Commission accepted the donations of multiple tracts for wildlife management area purposes and accepted the restrictions on their use, which make the tracts and the Maurepas Swamp WMA subject to La. R.S. § 56:765.

53.

The LDWF and the Commission permitted the State Mineral and Energy Board to act as their agent for all purposes in entering into the Storage Agreement with Air Products.

54.

The effect of the terms of the Storage Agreement is the breach of the terms and conditions of the various acts of donation that make up the Maurepas Swamp WMA.

55.

The Storage Agreement permits the construction of a subsurface pipeline through the Maurepas Swamp WMA, despite the express terms of the acts of donation and sale which constrict the use of the property in its undisturbed state with no exceptions for commercial or private development.

56.

Defendants violated La. R.S. § 56:765 by entering into the Storage Agreement, which authorized the breach of conditions and terms of the acts of donation for the Maurepas Swamp WMA. Defendants' actions in entering into the Storage Agreement were in violation of their statutory duties as guardians of the Louisiana conservation areas and in violation of state law.

57.

Defendant LDWF further violated La. R.S. § 56:765 by providing Air Products with the Letter of Clearance, which reiterates that the agency is purporting to authorize the breach of a condition of donation by approving construction of a private commercial pipeline through a protected area that will reduce or destroy the total wetlands and alter the use and condition of the area.

58.

Petitioner, whose members are citizens of Louisiana and who routinely use, recreate in, enjoy and engage in boating and fishing in the Maurepas Swamp WMA, will be irreparably injured by the disruption and destruction of the protected WMA property, which cannot be mitigated or remediated through monetary damages or other relief.

59.

This Court may issue a permanent injunction against governmental action where the act sought to be enjoined is unlawful.

60.

This Court may issue a mandatory injunction, which commands the doing of some action, and which may also be issued to undo what has been illegally done.

61.

This Court may issue a mandatory injunction to declare the Storage Agreement null and void, to the extent that it purports to authorize a breach of the terms of the Maurepas Swamp WMA acts of donation, and to declare the Letter of Clearance null and void, to the extent that it purports to authorize a breach of the terms of the Maurepas Swamp WMA acts of donation.

CLAIM TWO:

The Defendants Acts Exceeded Their Statutory Authority and Are Ultra Vires

62.

An administrative agency must act in conformity with its statutory authority, which it cannot exceed. An administrative agency or board has only the power and authority expressly granted by the constitution or statutes.

63.

By entering into the Storage Agreement and/or authorizing their agent to enter into the Storage Agreement, Defendants exceeded their authority under state law, specifically La. R.S. § 56:765. Specifically, Defendants do not have the authority to agree to, or grant permission for, the construction of a pipeline through those tracts of the Maurepas Swamp WMA that are encumbered by restrictions that prioritize each tract's use for wildlife management, including protection, preservation, and conservation of habitat.

64.

Defendants do not have the power to breach any term or condition of any act of donation that they have accepted. Defendants nonetheless purported to exercise such power, which they did not possess, when entering into the Storage Agreement. This act was outside their authority.

65.

By providing the Letter of Clearance, Defendants LDWF and Secretary Sheahan exceeded their authority under state law, specifically La. R.S. § 56:765. Defendants LDWF and Secretary Sheahan do not have the power to breach any term or condition of any act of donation for the WMA. Defendants LDWF and Secretary Sheahan nonetheless purported to exercise such power, which they did not possess, when providing the Letter of Clearance.

66.

Therefore, Defendants were without lawful power to agree to or grant permission for the pipeline construction through the Maurepas Swamp WMA.

67.

This Court may declare the actions by Defendants as ultra vires and void and may enjoin Defendants from fulfilling the terms of the Storage Agreement and the Letter of Clearance, to the extent that each document purports to authorize a breach of the terms of the WMA acts of

donation, as Defendants are without lawful authority to act in disregard of and in violation of state law as to the unilateral modification of wildlife conservation acts of donation.

PRAYER FOR RELIEF

For the foregoing, Petitioner respectfully requests that this Court grant the following relief:

- (1) Declare that the Defendants are bound and constrained by La. R.S. § 56:765;
- (2) Declare the Storage Agreement is null and void to the extent it purports to approve and allow the construction of the carbon dioxide pipeline through the Maurepas Swamp WMA;
- (3) Declare that the Letter of Clearance is null and void and vacated to the extent it purports to approve and allow the construction of the carbon dioxide pipeline through the Maurepas Swamp WMA;
- (4) Issue a permanent injunction preventing Defendants from approving or agreeing to any plan or proposal to construct a pipeline through the Maurepas Swamp WMA or from violating any other term or condition of the acts of donation and act of sale of the tracts of land that make up the Maurepas Swamp WMA, per La. Civil Code section 3601;
- (5) Award Petitioner reasonable costs and fees as allowed by law; and
- (6) Grant Petitioner such further and additional relief as the Court may deem just and proper.

Respectfully submitted, February 24, 2025:

/s/ Lauren E. Godshall
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LDWF Secretary Madison Sheahan
Louisiana Department of Wildlife and Fisheries
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Baton Rouge, LA 70808

Louisiana Wildlife and Fisheries Commission
Through the Louisiana Department of Energy and Natural Resources, Secretary Tyler Gray
LaSalle Building
617 North Third Street
Baton Rouge, LA 70802

LWFC Chair Kevin Sagrera
Louisiana Wildlife and Fisheries Commission
Through Louisiana Department of Energy and Natural Resources, Secretary Tyler Gray
LaSalle Building
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Baton Rouge, LA 70802

Louisiana State Minerals and Energy Board
Through Louisiana Department of Energy and Natural Resources, Secretary Tyler Gray
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