

July 3, 2023

U.S. Environmental Protection Agency
EPA Docket Center, Water Docket
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Submitted to <https://www.regulations.gov/>

RE: Docket ID No. EPA–HQ–OW–2023–0073, State of Louisiana Underground Injection Control Program; Class VI Program Revision Application

Dear EPA,

On behalf of the undersigned members of the Louisiana Against False Solutions (LAFS) coalition,¹ please accept the following comments regarding Docket ID No. EPA–HQ–OW–2023–0073, State of Louisiana Underground Injection Control Program; Class VI Program Revision Application.

We request a 60 day extension to the public comment period.

Given the industry and political pressure on EPA to grant primacy to the Louisiana Department of Natural Resources (LDNR), it is evident that there will be dozens of Class VI well applications to LDNR if primacy is granted. This will put tremendous pressure on LDNR and the communities of Louisiana. The public has a right to look into these issues as thoroughly as possible. In order to begin achieving this, we, along with the many comments already submitted, request a 60 day extension to the public comment period.

Environmental justice considerations referenced in the Federal Register are not adequate.

From the beginnings of LDNR’s application for primacy for Class IV wells, environmental justice has been a concern for many communities and organizations, including members of the LAFS coalition. After multiple letters and conversations with EPA, it is disheartening to see the environmental justice requirements amount to a single page in the Memorandum of Agreement (MOA) between EPA Region 6 and Louisiana, dated May 2023.

The requirements in the MOA are wholly inadequate to actually address environmental justice, and improve conditions for communities that disproportionately bear the brunt of pollution and other environmental harms due to industries, such as the oil and gas, and petrochemical complexes in Cancer Alley and Southwest Louisiana.

¹ The Louisiana Against False Solutions (LAFS) coalition is a group of more than 20 organizations leading in Louisiana and nationally for environmental, racial, and social justice. LAFS includes expertise across a range of disciplines: law, environmental science, geology, steel and materials scientists, traditional and Indigenous knowledge-holders, experienced campaigners, fisherfolk, and frontline communities. <https://www.lagainstfalsesolutions.org/>

The most glaring issue in the MOA is that there are no mechanisms to actually change or reject permits due to environmental justice concerns. There are single paragraphs on the public process, considering environmental justice, enforcement, and mitigation, but nowhere in this page is there a mention of actually denying or substantively changing a permit in order to protect environmental justice communities. While increasing public comment is mentioned in the MOA, there is nothing in the application or MOA that dictates what LDNR will actually *do* with the comments received. This is especially troubling because LDNR has publicly stated that “LDNR currently lacks statutory authority to make the results of an EJ review part of the actual permit decision.”² Without this statutory authority, EPA cannot grant primacy to Louisiana, as LDNR would be the permitting agency.

Environmental justice is not just about public notice and mitigation. Its goal should be to eliminate harm to and improve conditions for these communities. If LDNR cannot even deny a permit due to environmental justice concerns, the environmental justice portions of this application are a farce.

Environmental Justice considerations must be incorporated into rules posted in Title 43, NATURAL RESOURCES, Part XVII. Injection and Mining

It is concerning that the above environmental justice issues are not even captured in the actual rule that will be part of Louisiana regulations, instead it is incorporated by reference. All environmental justice requirements for class VI wells must be found directly in the regulations, not in separate documents that are easier to ignore. If they are not in the actual regulations, applicants will not realize they are part of the application process. By the time LDNR informs them, any environmental justice concerns will simply be an after-thought or box-checking exercise.

LDNR’s track record does not demonstrate that it can adequately administer a Class VI program.

DNR has a track record of allowing facilities that it permits to pollute, and sometimes catastrophically destroy their surroundings incidents like Bayou Corne³ and Freshwater City⁴ are indicative of the myriad of problems with the Class VI UIC programs managed by these state agencies.

EPA must require a full Environmental Impact Statement (EIS) or Programmatic EIS before primacy can be granted to LDNR

2

http://www.dnr.louisiana.gov/assets/OC/im_div/uic_sec/2022SonristoSunset/ClassVIatPipelineSafetyConference7-10-22.pdf, slide 24.

³ Mitchell, David. [Judge: Fault for Bayou Corne sinkhole lies with Texas Brine, OxyChem, Vulcan; companies had decades of warnings | The Advocate](#) January 12, 2018.

⁴ Dermansky, Julie and Kelly, Sharon. [Industry Insiders Question Louisiana Regulators Over Cleanup on ExxonMobil Land, Amid Corruption Claims and Pollution Fears | DeSmog](#) June 29, 2022.

According to the EPA, “Federal agencies prepare an Environmental Impact Statement (EIS) if a proposed major federal action is determined to significantly affect the quality of the human environment.”⁵ Given the testimony provided during the four days of public hearings, and expert opinions on community safety, seismicity, groundwater contamination, and impacts to public lands and waters, EPA must require an EIS or programmatic EIS on this proposed federal action.

Thank you for the opportunity to comment on EPA’s proposed approval to grant Louisiana primacy over Class VI carbon dioxide waste injection wells. Given the above comments, and the comments of hundreds, if not thousands, of community members throughout Louisiana, and the nation, EPA must not grant primacy for Class VI injection wells to LDNR.

Sincerely,

Matt Rota, Policy Director, Healthy Gulf

Kaitlyn Joshua, Louisiana Gulf Coast Campaigner, Earthworks

Eloise Reid, Coordinator, Louisiana Against False Solutions

Logan A. Burke, Executive Director, Alliance For Affordable Energy

Jack Reno Sweeney, Organizer, GreenARMY

Ashley Herad, Taproot Earth

Lauren Fleer, Environmental Engineer, Center for Applied Environmental Science, Environmental Integrity Project

Angelle Bradford, Sierra Club Delta Chapter

Roishetta Sibley Ozane, The Vessel Project of Louisiana

Elizabeth Soychak, Co-Chair, Climate Reality Project New Orleans, and 350 New Orleans

⁵ <https://www.epa.gov/nepa/national-environmental-policy-act-review-process>