



117 South First Street • Montevideo, MN 56265

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February 11, 2025

Chair Heintzeman  
House Environment and Natural Resources Finance and Policy Committee  
Re: GTAC Final Recommendations Report

Chair Heintzeman and Committee Members,

CURE is a rurally based, non-profit organization dedicated to protecting and restoring resilient towns and landscapes by harnessing the power of the people who care about them. We appreciate the opportunity to provide input on the Gas Resources Technical Advisory Committee (GTAC) Final Recommendations Report and how the draft language in it could be improved. As Minnesota moves forward with creating new standards and processes that will guide the development of a novel gas exploration and extraction industry, we have the chance ensure we have a system in place that seeks to include and benefit the most-directly-impacted communities.

As currently written, the Contested Case section proposed in the draft statutory language of the GTAC report (Section 18. 93.5176 CONTESTED CASE) is inconsistent with Minnesota and federal law. The petition process in that proposed section is written to be limited to affected property owners and federal/state/local government units with impacted responsibilities: “Any person owning property that will be affected by the proposed gas resource development operations or any federal, state, or local government having responsibilities affected by the proposed operation identified in the application for a gas resource development permit under section 93.5174 may file a petition . . .” This fundamentally undercuts the public’s existing right, including community members who will be directly affected by these projects, but may not have the privilege of owning land, to bring claims such as Minnesota Environmental Rights Act claims as an intervention in a permitting process. Minn. Stat. § 116B.09, Subd. 1. By keeping the public out of the contested case petition process, the agency will ultimately experience higher cost and delay because any MERA dispute will instead play out in the courts. Minn. Stat. § 116B.03, Subd. 1. Worse still, by omitting tribal governments and thereby abrogating treaty obligations,<sup>1</sup> this proposed language would assure that federal litigation would be the main recourse for impacted tribes who seek to have their concerns heard before a rush to judgement on a particular permit.<sup>2</sup> Other local governments in the area of such development who arguably don’t have “responsibilities affected” (an ambiguous term at best) also may have serious concerns regarding their water supply, water quality, or community health that would be better resolved in a contested case than through a direct appeal to the courts. But this draft language in Section 18 forces many potential petitioners to bring litigation rather than having their concerns heard by the expert agency before a permitting decision is made.

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<sup>1</sup> One need look no further than DNR’s own website for examples of the treaties that the omission of tribes appears to violate. See DNR, 1854 Treaty, [https://www.dnr.state.mn.us/aboutdnr/laws\\_treaties/1854/index.html](https://www.dnr.state.mn.us/aboutdnr/laws_treaties/1854/index.html) (last visited Feb. 10, 2025).

<sup>2</sup> These cases can be lengthy and expensive, as when Minnesota lost before the Supreme Court after being sued over failing to acknowledge off-reservation usufructuary rights. *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172 (1999).



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The draft language also provides no explicit controls on PFAS chemical use in drilling, even though serious concerns were raised by commenters on this topic. The MPCA response that PFAS will be phased out in *consumer products* under existing law is irrelevant to the concern raised by commenters that PFAS are being used in drilling fluids, and are thereby being injected into drinking water sources and spilled in the environment to permanently contaminate land and water. Researchers have found that PFAS are used and injected underground in similar industrial exploration and production in Texas. “PFAS are used to reduce friction for drill bits as they move through the ground” according to the researchers.<sup>3</sup> The study found that at least 21 tons of PFAS had been injected underground as a part of oil and gas drilling activities.<sup>4</sup> Drilling fluids are an industrial use, not a consumer product, and therefore Minnesota’s law is currently far too weak on PFAS contamination that may follow this industry. By contrast, Colorado has taken action and banned the use of PFAS in the oil and gas industry starting on January 1, 2024.<sup>5</sup> Injecting toxic “forever chemicals” into groundwater that rural Minnesota communities depend upon for drinking water should be more seriously considered and controlled in any legislation that is attempting to responsibly regulate and permit this industry. Following Colorado’s lead and prohibiting PFAS in this industry would be a reasonable prohibition to enact in these temporary standards as well as any future permanent regulations.

This potential legislation portends to open up a new gold rush in our northeastern communities. The Native and non-Native communities of the Iron Range, like many rural communities across the country, have given their land and their labor to build the wealth of the state of Minnesota and the United States. Multinational corporations and the venture capitalists that fund them once again have their sights set on the resources that lie beneath the places where we live, work, and raise families. Nascent as this industry is, there is the unique opportunity to make sure that we have a framework in place that respects the contributions and sacrifices that rural communities on the frontline of these projects contribute to enable their success. As we seek to bring new industries to the region that potentially bring new opportunities but also new burdens, our communities deserve both a say about who bears those burdens and who benefits.

Sincerely,

/s/ Hudson Kingston  
Legal Director

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<sup>3</sup> Amal Ahmed, *Thousands of pounds of “forever chemicals” have been injected into Texas oil and gas wells, study finds*, Texas Tribune, March. 27, 2023, <https://www.texastribune.org/2023/03/27/texas-fracking-oil-gas-wells-pfas-report/>.

<sup>4</sup> Press Release, Physicians for Social Responsibility, *Fracking with “Forever Chemicals”: Analysis Finds Oil and Gas Companies May Be Exposing Texans and Groundwater to Highly Toxic Chemicals*, February 6, 2023, <https://psr.org/fracking-with-forever-chemicals-analysis-finds-oil-and-gas-companies-may-be-exposing-texans-and-groundwater-to-highly-toxic-chemicals/>.

<sup>5</sup> See, HB22-1345, *Perfluoroalkyl And Polyfluoroalkyl Chemicals*, 2022 Regular Session, <https://www.leg.colorado.gov/bills/hb22-1345>. Kristina Marusic, *How Colorado is preventing PFAS contamination from the oil and gas industry*, Environmental Health News, Aug. 4, 2022, <https://www.ehn.org/pfas-contamination-oil-gas-legislation-2657787061.html>.

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CURE  
P.O. Box 712  
Ely, MN 55731  
(320) 269-2984  
hudson@curemn.org