

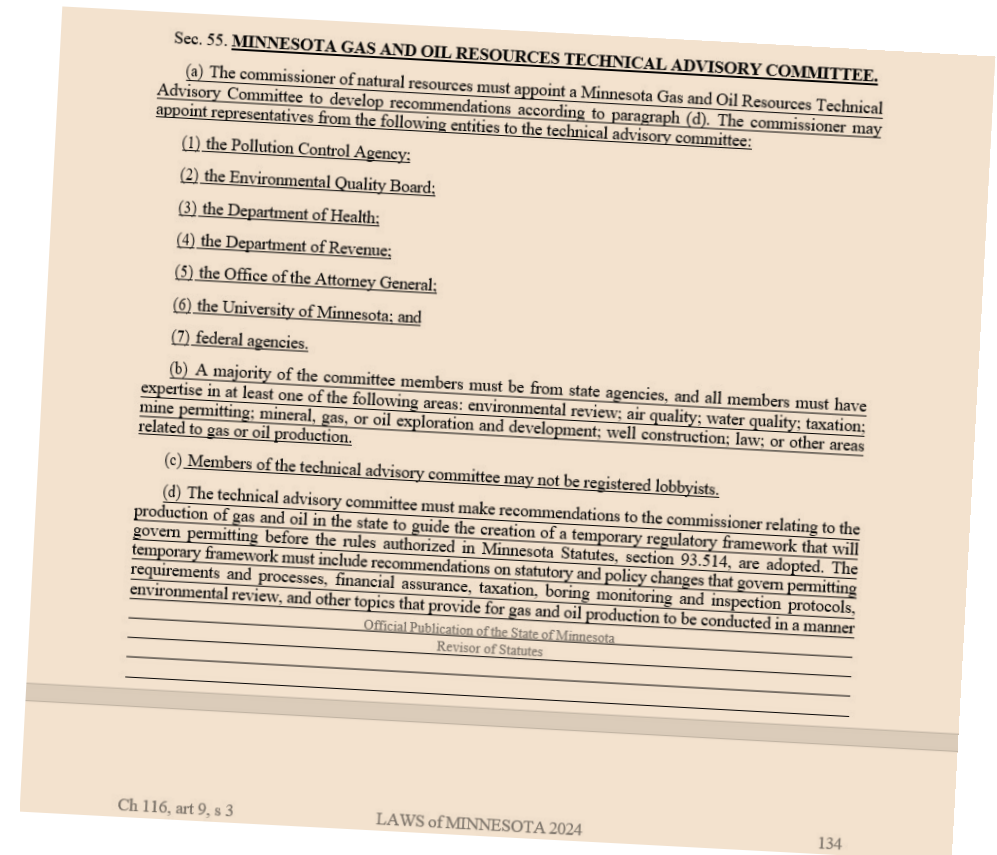


Overview of DNR Recommendations for Building a Temporary Regulatory Framework for Gas Production

GTAC's Required Recommendation Topics

GTAC was directed by the Minnesota legislature to make recommendations and create statutory language that would support a temporary regulatory framework for permitting gas resource development projects during rulemaking. The legislation requires GTAC to make recommendations on several specific topics.

- Permitting Requirements and Processes
- Financial Assurance
- Taxation
- Boring Monitoring and Inspection Protocols
- Environmental Review
- “Other topics that provide for gas and oil production to be conducted in a manner that will reduce environmental impacts to the extent practicable, mitigate unavoidable impacts, and ensure that the production area is restored...”



DNR's Draft GTAC Recommendations

The DNR has submitted 29 of the recommendations within GTAC's draft compilation. These recommendations address aspects of four of the required topics. There are also recommendations for pooling and spacing of gas resources that would ensure that permitted production under the temporary regulatory framework protects landowner interests.

The following slides highlight some of the 29 recommendations.

- Permitting Requirements and Processes
- Financial Assurance
- Gas wells
- Environmental Review Costs
- Pooling and Spacing

RECLAMATION OF GAS RESOURCE DEVELOPMENT LOCATIONS

93.5171 DECLARATION OF POLICY.

In recognition of the effects of the development of gas resources upon the environment, it is the policy of this state to provide for the reclamation of gas resource development locations, to control possible adverse environmental effects of the development of gas resources, and to encourage the planning of future land utilization, while at the same time recognizing the beneficial aspects of gas resource development.

93.51711 DEFINITIONS

Subdivision 1. Applicability. *For the purposes of sections 1 to XX, the terms defined in this section have the meanings given to them.*

Subd. 2. Commissioner. *"Commissioner" means the commissioner of natural resources.*

Subd. 3. Contingency reclamation plan. *"Contingency reclamation plan" means a plan that identifies reclamation activities, including closure and post closure maintenance work, that would be implemented by the permittee if operations ceased or if producing gas wells were idled for more than 36 months. This plan must include methods, sequence, and schedule of reclamation activities, maps and cross sections that depict gas resource development locations both before and after reclamation activities are completed, and cost estimates necessary to implement the contingency reclamation plan.*

Subd. 4. Corrective action. *"Corrective action" means the immediate actions that must be taken to correct observed violations of the gas resource development permit. Corrective action may consist of immediately curing the violation, or submitting, within two weeks, a corrective action plan for approval before the permittee implements the corrective action.*

Subd. 5. Department. *"Department" means the Department of Natural Resources.*

Subd. 6. Exploration and Production Waste. *(E&P Waste) Exploration and Production Waste (E&P Waste) shall mean those wastes associated with operations to locate or remove gas from the*

Gas Resource Development Permit

The infrastructure and equipment used to discover and define a gas resource are also used during gas production. To make sure that gas wells and other infrastructure are built in locations that are protective of the environment, the DNR recommends that permitting gas resource development projects be completed before gas wells are drilled.

- Permit that regulates drilling and other surface disturbances tied to gas resource development.
- Has to be obtained before drilling.
- Minimizes delays between exploration and production.

Exploration
and
Appraisal

Production

DNR-4: Permits for gas resource development projects should be required before gas wells are drilled.

Recommendation

Permits for gas resource development projects should be required before a gas well is drilled, rather than before that gas well goes into production and extracts commercial quantities of a gas resource. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

Draft statutory language: 93.51711, Subd. 11 (Drilling a gas well identified as a gas resource development operation), and 93.5174 (Prohibition against gas resource development operations without permit).

Rationale

The MDH recommends that drilling a gas well only requires notification, rather than a permit. Notification by an operator that a gas well will be drilled does not require environmental review. Waiting to permit a gas development project until after gas wells have been drilled is too late, as it precludes alternative site analysis or effective environmental review. The state therefore needs to think beyond permitting a "production project" and permit gas resource development activities, and require a permit prior the drilling of gas wells. This is a more comprehensive purview that includes any ground surface disturbances tied to any gas development activities.

Requiring environmental review and permitting of gas wells and gas resource development operations is not inconsistent with state regulation of exploratory borings. There also substantive differences between gas production and mining. For mining, exploratory borings are used to discover and define a subsurface resource, but aren't used to extract that resource during the production phase. However, the same

Gas Resource Development Locations

The need for a gas resource development permit would be triggered by any gas resource development operation that disturbs the ground surface. This recognizes the need for environmental review and permitting before drill pads are constructed, since they are more permanent. This would be similar to what is done for gas production in Colorado.

- Permit triggered by proposed gas resource development operations that disturb the ground surface.
- Gas wells typically sit on drill pads up to 10 acres in size, and a project could include multiple drill pads.
- Pads might operate for years.

Recommendation DNR-5: Permits for gas resource development projects should apply to “gas resource development locations,” where gas development operations disturb the ground surface.

Recommendation

A gas resource development permit should be required whenever gas resource development operations would disturb the ground surface. These areas, defined as “gas resource development locations,” are distinct from spacing units or extraction areas that are the undisturbed surface expression of subsurface gas extraction. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

Draft statutory language: 93.5174

Rationale

Gas wells are typically drilled on drill pads up to ten production, the site might be in operation for several environmental review and permitting take place at drilling takes place. DNR recommends and that the locations, including proximal ancillary buildings such on a gas well’s drill pad.

The image shows a green form titled "Form 2A Oil and Gas Location Assessment". It includes a header with the State of Colorado logo and contact information for the Oil and Gas Conservation Commission. The form is divided into several sections: 1. Consultation, 2. Operator, 3. Contact Information, 4. Location Identification, and 5. Facilities. Section 5 includes a table for indicating the number of each type of oil and gas facility planned on the location.

5. Facilities (Indicate the number of each type of oil and gas facility planned on location)									
Wells	Drilling Pits	Special Purpose Pits	Production Pits	Multi-Well Pits	Oil Tanks				
Condensate Tanks	Water Tanks	Separators	LACT Unit	Dehydrator Units	Gas Compressors				
Pump Jacks	Cavity Pumps	Electric Motors	Sets or Diesel Motors	Electric Generators	Flare Stacks				
Pigging Station	Gas Pipeline	Oil Pipeline							
Other:									

Financial Assurance

The DNR recommends that gas resource development permits include the same types of financial assurance requirements used for mine projects in Minnesota. This ensures that our taxpayers won't have to pay for sealing orphaned gas wells or reclaiming gas production sites if the permittee goes bankrupt or skips town.

- Establish financial assurance requirements, like those required for mine projects.
- For temporary framework, this requires both statutes and session law (laws that expire once financial assurance rules are written).

Recommendation DNR-14: Financial assurance requirements for a gas resources development projects should as a guide, follow similar financial assurance processes for nonferrous metallic mining projects.

Recommendation
The financial assurance requirements for gas resource development projects should largely mirror established statutes and rules for financial assurance of nonferrous metallic mining projects. This recommendation is for both the temporary and regulatory frameworks.


Draft statutory language: 93.5177

Rationale
Minnesota lacks a regulatory framework for gas resource development projects. It does, however, have a regulatory framework for nonferrous metallic mining projects. Mn Rules Chapter 6132.1200 provides a regulatory framework for financial assurance of nonferrous metallic mining projects. Modifications as needed to the regulatory framework for solid minerals. This recommendation is for both the temporary and regulatory frameworks.

- a degree of
- statutory
- statutory

The statutes and rules for nonferrous metallic mining projects (as is the case for permittees) are written in a regulatory framework.

Some might argue that would be a good idea to have a resource development project and a gas resource development project on one drill site. The scope of the financial assurance requirements for gas resource development projects should be consistent with the scope of the financial assurance requirements for nonferrous metallic mining projects.



The screenshot shows two overlapping web pages from the Office of the Revisor of Statutes. The top page is titled "2024 Minnesota Statutes" and displays "93.49 FINANCIAL ASSURANCE OF OPERATOR." The text states: "The commissioner shall require a bond or other security or other financial assurance satisfactory to the commissioner from an operator. The commissioner shall review annually the extent of each operator's financial assurance under this section." The bottom page is titled "Minnesota Administrative Rules" and displays "6132.1200 FINANCIAL ASSURANCE." It includes subparts 1 and 2. Subpart 1 defines the purpose of financial assurance. Subpart 2, titled "Contingency reclamation cost estimates," states that persons intending to conduct a mining operation must submit a documented estimate of costs necessary to implement the contingency reclamation plan.

Permitting and Environmental Review Fees

The DNR recommends a fee structure for gas resource development permits that includes application fees, which cover DNR's costs to review a permit application, prepare a permit, and monitor project construction, and an annual fee that both covers project-related costs (e.g., site inspections) and partially supports the DNR's regulatory program. The DNR also recommends that the permit applicant pay for our costs to complete environmental review for their project.

Fee Type	Recommended Fee
Application fee	\$50,000 (applied to DNR review costs)
Supplemental application fee	Based on scope of DNR's application review, permit preparation and construction monitoring.
Annual permit fee	\$75,000
Environmental Review	Applicant assessed DNR's costs to complete environmental review of the proposed project

Permits issued under a temporary regulatory framework

The DNR recommends that gas resource development permits issued under a temporary regulatory framework not be temporary, meaning that they would expire once rulemaking for a permanent framework is completed. Under this scenario, those permits would persist beyond rulemaking, unless a permit amendment was required.

- Permits issued under temporary framework should not be temporary...valid through rulemaking.
- If a project requires an amendment once rules are promulgated, new permit issued for entire operation that reflects permanent framework.

Recommendation DNR-8: Gas resource development permits issued during rulemaking and under a temporary regulatory framework should continue to remain valid after the completion of the rulemaking process. If a gas resource project permitted under the temporary framework requires a permit amendment or substantively changes its operations after rules are promulgated, their permit would then need to be updated to reflect the permanent regulatory framework.

Recommendation

Gas resource development permits issued under a temporary regulatory framework should not be considered temporary. Permits issued under the temporary regulatory framework should be considered permanent permits.

Temporary Permits

Draft statute

Rationale

The enacted statute instructs the legislature to issue permits that are adequate for the project.

The phrase

framework, b) a permit that is revoked once rules are promulgated, and the temporary regulatory framework is replaced by a permanent framework, or c) the permit is only valid for a fixed period of time, irrespective of the term requested by the permittee (93.5174, Subd. 4.). The DNR recommends that the word "temporary" be removed from the phrase "temporary permit," to make clear that a permit

Subd. 2. **Moratorium.** Until rules are adopted under section 93.514, the commissioner may not grant a permit for the production of gas or oil unless the legislature approves a temporary permit framework that allows issuance of ~~temporary~~ permits.

work
rate
e a
it

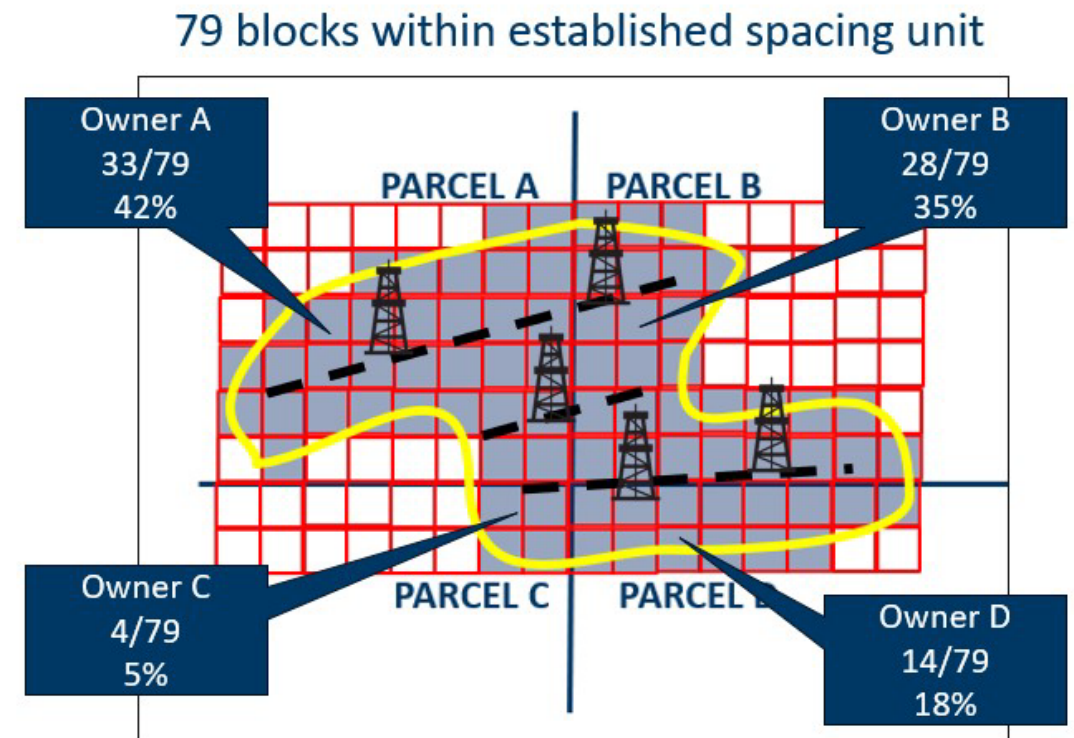
nesota
d by the
ts

cs. 55).

Correlative Interests

The DNR recommends new statutory language for establishing spacing units and issuing pooling orders. This authority prevents wasteful drilling of unnecessary gas wells and would protect the rights and interests of all landowners overlying a developable gas reservoir.

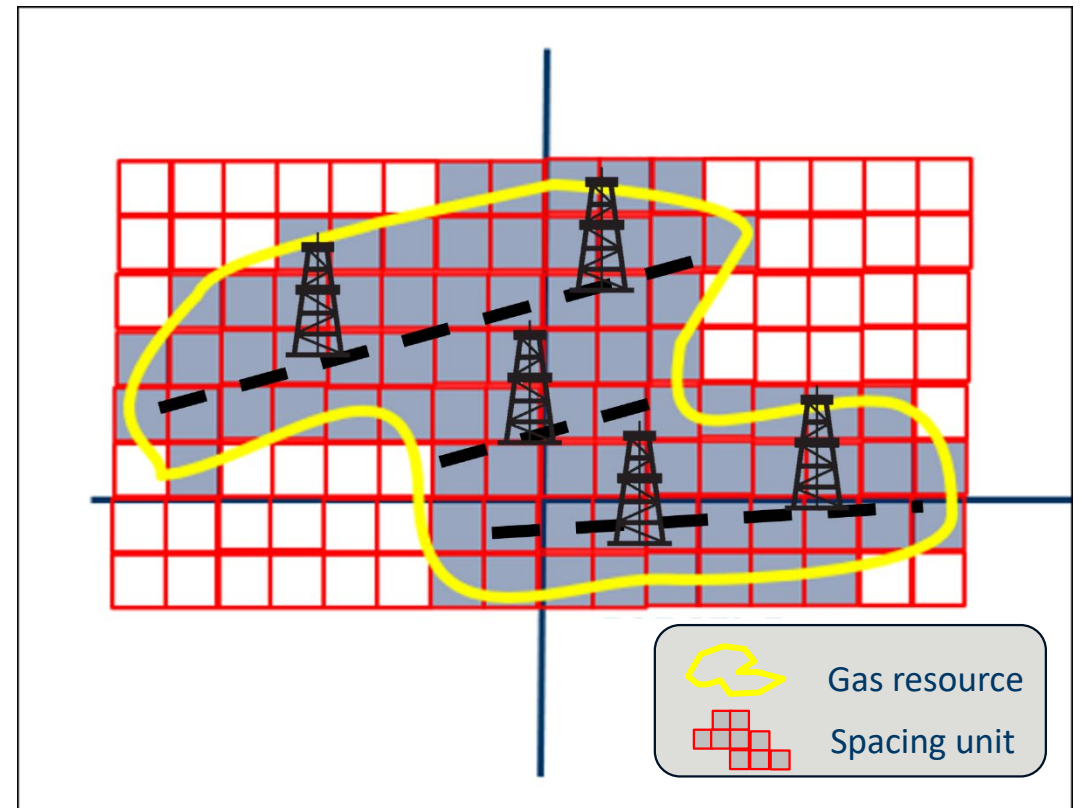
- Combat Rule of Capture by establishing the correlative rights of all owners of mineral interests within a gas reservoir.
- Compensates mineral interest owners for their proportionate share of a gas resource even when the gas wells commercially developing that resource are located on neighboring land.



Spacing units

The DNR recommends that its commissioner be given the authority to establish spacing units, which define the maximum area for gas resources to be efficiently and effectively developed by a well or set of wells. A spacing unit is built from 40-acre parcels

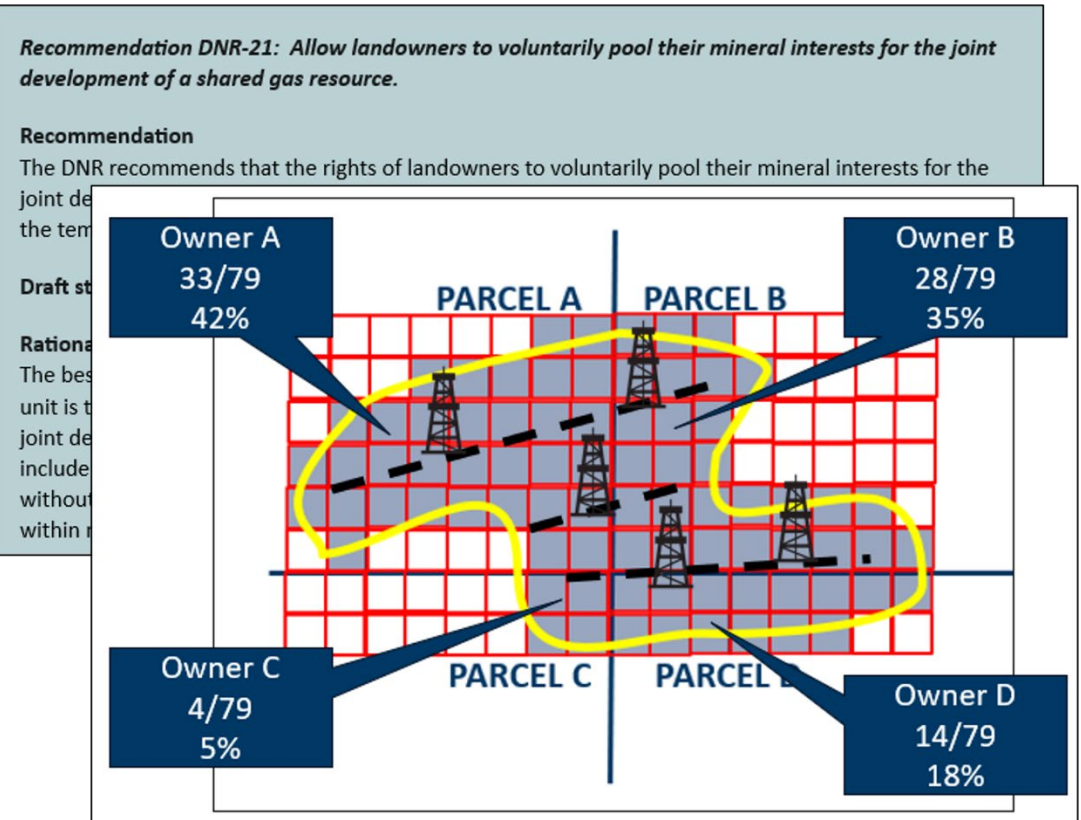
- Spacing units define the maximum area that can be efficiently and effectively developed by a well or set of wells.
- Established based on geology and engineering data.
- Size and shape of a spacing unit can change if new data becomes available.



Voluntary pooling

The DNR recommends that the owners of mineral interests within a spacing unit be allowed to voluntarily pool their interests and jointly develop the gas resources within that unit. This mimics the current statutory requirement that an operator control 100% of the extraction area.

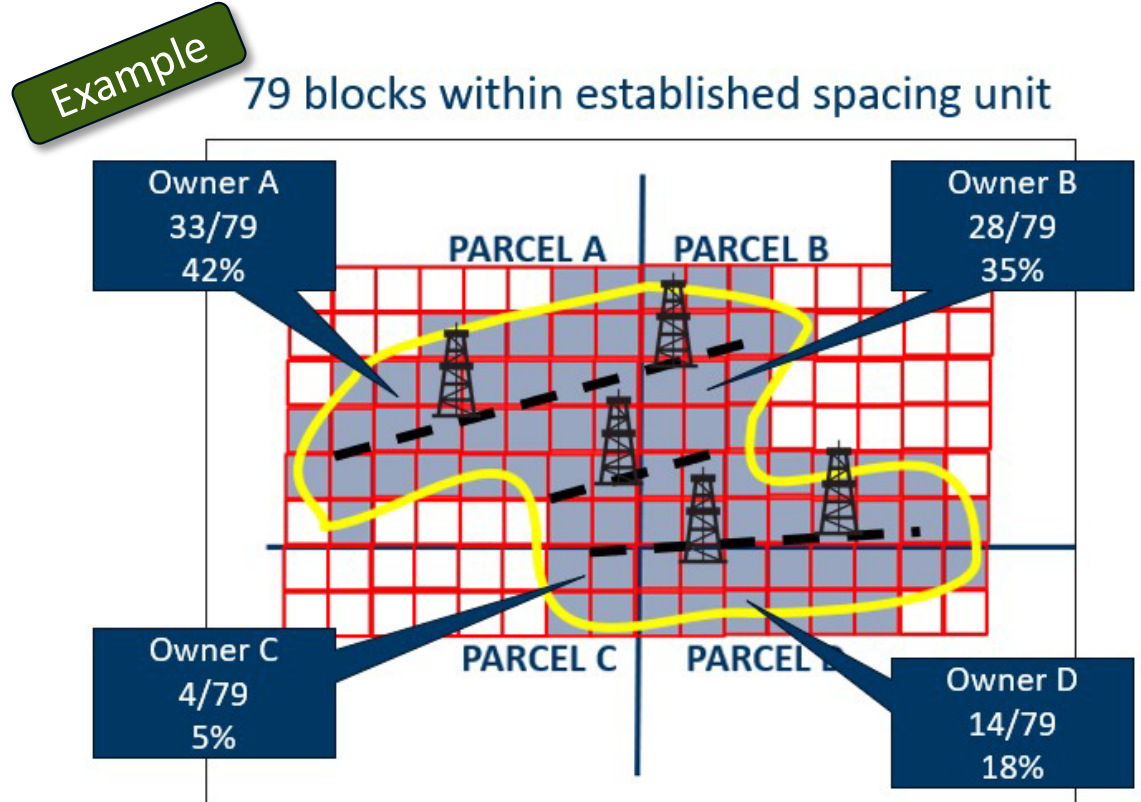
- Allow the owners of mineral interests within an established spacing unit to voluntarily pool their interests for joint development.
- If all owners voluntarily pool, no need for a pooling order.
- Mimics current statutory requirement for 100% control of extraction area.



Pooling Order Applications

If a minority of mineral interest owners don't agree to voluntarily pool, DNR recommends that its commissioner be given the authority to issue a pooling order for joint development of a gas resource. An applicant would need to control more than 50% of the mineral interests in a spacing unit. In the scenario above, at least two of the three largest landowners would need to agree to lease or participate to get over the 50% threshold.

- Give DNR commissioner authority to issue pooling orders.
- Recommend that an operator can apply for a pooling order if they control or lease at least 50% of the mineral interests within an established spacing unit.



Nonconsenting owners

The DNR recommends new statutory language that defines how the correlative interests of nonconsenting owners are protected by a pooling order. The order should also establish how voluntary owners are able to recoup what the nonconsenting owner didn't contribute to drilling costs.

- Need to define in statute how nonconsenting owners are compensated for development of their proportionate share.
- Also need to establish how voluntary owners recoup what the nonconsenting owner didn't contribute to drilling costs.

Recommendation DNR-25: Statutory language should be adopted that describes how pooled mineral interests are managed during gas development operations, and how the correlative interests of nonconsenting mineral interest owners are protected by ensuring they receive a proportionate share of the profits from a gas resource development project.

Recommendation

The DNR recommends that statutory language should be adopted that describes how pooled mineral interests are managed during gas development operations, and how the correlative interests of nonconsenting mineral interest owners are protected by ensuring they receive a proportionate share of the profits from a gas resource development project. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

Draft statutory language: 93.5153, Subd. 8. and Subd. 9.

Rationale

Statutory language that sets requirements for the management of pooled mineral interests and describes in sufficient detail the rights and responsibilities of the operator of wells within a spacing unit is needed to protect the correlative interests of both nonconsenting owners of mineral interests within a spacing unit and those landowners who have voluntarily pooled their mineral interests for joint development of a gas resource.

No pooling of unleased Tribal lands

Under federal law, unleased federal and Tribal lands are shielded from state-issued pooling orders. The DNR recommends that this protection also be provided by state law. This shield wouldn't prevent Tribes from leasing their lands for gas resource development activities.

- Federal law shields unleased federal and tribal-owned lands from state-issued pool orders.
- Recommend overlapping that protection in state law.
- Doesn't preclude Tribes from leasing their lands.

Recommendation DNR-28: Unleased mineral interests tied to an American Indian tribe or band owning reservation lands in Minnesota or owned by the federal government should be shielded from pooling orders.

Recommendation

The DNR recommends that unleased mineral interests tied to an American Indian tribe or band owning reservation lands in Minnesota should be shielded by state law from state-issued pooling orders. This recommendation is for both the temporary and post-rulemaking regulatory frameworks.

Draft statutory language: 93.5153. Subd. 7.

Rationale

Under federal law, state-issued pooling orders for the development of gas resources do not apply to unleased "Federal or Indian oil and gas." While a state statute that shields unleased American Indian tribe or band owned reservation lands in Minnesota from pooling orders might therefore seem redundant, such a statute would serve as an effective backstop if there were changes to federal law. The recommended application of this proposed statutory language to "American Indian tribe or band owning reservation lands" is based on the statutory language in 93.52, Subd. 2.

We note that this recommendation is only for unleased reservation lands. Tribes are free to lease their mineral interests (including oil and gas rights) to operators seeking to develop gas resources, and operators who are applying for a pooling order for a spacing unit that includes Tribal lands must obtain a lease from the Tribes.



For more information, see the DNR's full set of recommendations on the [Gas Production webpage](#) – Thank you!