

## Table of Public Input, GTAC Draft Recommendations and Statutory Language

Date/Time	Input
<b><i>Emailed input</i></b>	
<p>12/2/24 9:51 am</p>	<p>Good Day,</p> <p>Regarding permitting of gas exploration and production permitting, please do continue expediting the development of the full process for both.</p> <p>I have visited the Babbitt site, as I assume you have, and it is a clean, well run project.</p> <p>This is a huge employment opportunity for Minnesota, and if the process gets bogged down, the early developers will move elsewhere.</p> <p>Please do not screw this up.</p> <p>Minnesotan’s need it, and there are zero environmental issues.</p>
<p>12/2/24 11:22 am</p>	<p>Thanks for the opportunity.</p> <p>This is obvious but please preserve all of our wildlands and waters. Please honor Native American requests, they should be respected.</p> <p>Sincerely,</p> <p>Starr Brantingham</p>
<p>12/2/24 8:31 pm</p>	<p>from what i have read there seems to be little impact to the enviroment and the helium is a vital resource... sometimes you have to compromise for the benifit to us all.</p>
<p>12/3/24 11:26 am</p>	<p>We are seasonal residents in the Isabella area and use Highway 2 regularly throughout the year....driving past Dunka Road where the Topaz Helium Project between Isabella and Babbitt is being (considered) planned.</p> <p>As stated on the website, "Minnesota has untapped and unexplored potential for both geologic hydrogen and helium resources. <b><i>With no history of gas production in the state, Minnesota needs a framework that would regulate these emergent industries to properly protect natural resources and human health</i></b>, develop a fair royalty structure on state-managed lands and <b><i>ensure the conservation of the state’s natural resources.</i></b>" (<i>Editor’s note: the color, italics and bold font of the red text in this paragraph are preserved from original</i>)</p> <p>We are not able to attend either of the public meetings in Biwabik or in Eagan, but would like to ask a few questions which I hope can be addressed and considered.</p> <p><b><i>Questions regarding the Topaz Helium project between Isabella and Babbitt:</i></b></p> <p>(1) What are the plans for a preliminary Environmental Quality Worksheet (EAW)?</p>

Date/Time	Input
	<p>(2) If the developing issues raised in that study (EAW) are sufficiently concerning, will the public be entitled to an Environmental Impact Statement (EIS) on the project without obstruction of the DNR?</p> <p>(3) Additionally, how will residents and travelers be considered as you make your decision allowing the project to potentially move forward? (As mentioned, we live in Duluth but are ALWAYS..... year round.... on Highway 2 from Two Harbors toward Highway 1, and vice versa driving by Dunka Road regularly.) As you have stated, there are no rules on the books at this time so how will the Topaz project be treated (and how will those of us who drive by that area during the exploration and extraction of the helium need to worry about drilling noise, nocturnal lighting, and dust?)</p> <p>Thank you and we do hope the questions above will be considered when you make your decision....and we do hope whatever decision you reach will truly be thoroughly researched and not hurried to reach a conclusion to benefit an industry before the people of Minnesota.</p> <p>Ben and Barry Wolfe</p> <p>Duluth and Isabella, MN</p>
<p>12/16/24 3:44 pm</p>	<p>All the welding Gas suppliers are able to pull gases from the air. Thins just another government overreach.</p>
<p>12/20/24 10:26 am</p>	<p>Good morning,</p> <p>I'm seeking some clarification please on the Regulatory Framework for Developing Gas Resources in Minnesota. I'm looking at this page <a href="https://gasproductionrules.mn.gov/project-timeline.html">https://gasproductionrules.mn.gov/project-timeline.html</a></p> <p>Am I correct in stating that currently there are no permits for gas extraction and that as yet there is no temporary framework for gas development projects?</p> <p>What is the earliest that temporary legislation to enable gas projects might be enacted? May 2025?</p> <p>And if legislation for a temporary framework is not passed in May 2025, then how long until new legislation that might enable gas projects to be permitted?</p> <p>Another question please: are not Minnesota law makers overall positive towards gas development projects in the state?</p> <p>Also, which tribal nations would need to be consulted in the base of the Pulsar Helium / Topaz project?</p> <p>Am I correct in saying that if tribal nations are not in agreement then the Topaz project could not go ahead?</p>

Date/Time	Input
	<p>Also, are there plans for a helium pipeline in Minnesota to take helium from the Topaz project to Duluth port? Seems a long way and expensive to transport the helium from the well-heads by truck.</p> <p>Many thanks for your time and have a wonderful weekend.</p> <p>Franc</p> <p>Franc Milburn</p>
<p>12/22/2024 12:19pm</p>	<p>The following does not try to represent the SWCD Board. or Lake Co. I only claim to represent myself and people in District. 2. by making these recommendations.</p> <ol style="list-style-type: none"> <li>1. I live 2 1/2 air miles from the site which I toured about a year ago with an invited group of local interested people. We were shown several tons of drilling aids stacked on pallets and contained in either bags or sealed buckets. Drilling effluent covered the site. The drilling effluent should be tested for PFAS chemicals and all drilling materials should be forced to list all ingredients they contain. This would make it in compliance with the recently enacted Amara's Law.</li> <li>2. If this enterprise wishes to be a good neighbor to all Minnesotans then it should be done cleanly and quietly. The current site is surrounded by Commons properties and a Scientific and Natural Area. The area is home to endangered species and species of concern. We already have contaminated lands and waters from other mining activities in nearby areas and we don't want more.</li> <li>3. The 8.5 parts CO2 should be sequestered in a scientifically approved site and not made to produce more CO2 products. This would be in line with the MN State goal of eventual carbon neutrality.</li> <li>4. The State and IRRRB might have some ability and desire to help establish one or two large solar arrays with appropriate battery back ups for expected uses. Transportation trucks should be quiet electric engine vehicles without Jake Brakes, and without the tire chemicals that stop fish reproduction. All extraction, compression sites should have very low decibels allowed, with all appropriate mufflers and sound barriers in place for all operations. I personally listened to about 6 months of continuous 24/7 low volume noise from 2 1/2 miles away as did a number of neighbors and all the area wildlife that depend on their ears for survival. Not only did this 24 /7 noise bother daily it was sometimes loud enough to carry through closed windows. Sound carries very well in the cold air of winter at the top of the watershed.</li> <li>5. Thus I would recommend the extraction, separation, compression, and transportation sites and vehicles be subject to a full Environmental Impact Statement.</li> <li>6. Meanwhile, before the State gives more permits for exploratory drilling it should get its mapping and history of previous exploratory bore holes updated. Last I looked it was impossible to determine how many of the old bore holes have been permanently sealed according to law and how many remained open as potential sources of aquifer contamination.</li> </ol>

Date/Time	Input
	<p>Twin Metals says they have permanently sealed all their bore holes yet as of a year ago that's not what State mapping showed.</p> <p>Thank you.</p> <p>Doug Lande</p>
<p>12/23/24 1:43 pm</p>	<p>Please see the attached comment. Thank you for the opportunity to provide input.</p> <p>Sincerely, Aaron Klemz</p> <p>(Editor's note: the referenced comments are included within this appendix)</p>
<p>12/23/24 10:13 pm</p>	<p>Good evening,</p> <p>First and foremost, thank you for the opportunity to submit written comments on the GTAC's recommendations for the temporary regulatory framework for permitting gas resources in Minnesota.</p> <p>I will preface these comments by stating that I speak only for myself as a pragmatic exploration geologist, and not for any company, organization, or formal/informal group. I am not well versed in gas exploration processes, and for this reason alone strongly encourage the GTAC to consult with the only company actively exploring for a primary gas resource in the State of Minnesota on:</p> <ol style="list-style-type: none"> <li>1. Exploration process for gas in this specific setting</li> <li>2. Order of operations with respect to exploration processes</li> <li>3. Utility of exploration boreholes versus production boreholes</li> <li>4. How their approach to gas exploration in Duluth Complex may have differed if the original discovery NQ core hole had not already produced strong indication of He</li> </ol> <p>Following discussion with GTAC members and associated regulatory entities to date, I am concerned with the regulatory framework being proposed at this time. More specifically, the requirement for a protracted permitting process (EAW) and placement of a sizeable financial "bond" (for lack of a better term) for ANY type of gas exploratory drilling effectively negates the exploration process. The act of drilling defines the "truth" in an exploration program. The surface mapping, sampling, geophysics and remote sensing data collection give indicators as to the presence or absence of subsurface geology, but discovery takes place ONLY with drilling. The exploration process needs to have as many flexible tools at its ready to condemn ideas or make initial discoveries at reasonable cost- and time-frames.</p> <p>The current structure proposed by GTAC runs counter to the intention of exploratory drilling, or at least presumptive of how exploration (for solid minerals or otherwise) occurs. The requirement of a \$50k application fee and a multi-year evaluation/permitting process to confirm or condemn an exploratory concept via drilling will effectively negate that part of the exploration process. If this is the intention of GTAC, then I STRONGLY suggest discussing the exploration process with the only company conducting it in this state.</p>

Date/Time	Input
	<p>With respect to the distinction between a gas exploration well, appraisal well, and production well, I strongly recommend that the GTAC consider some clear guidelines on what physical parameters defines each. For example, borehole diameter, construction methodology, surface footprint for required support equipment, etc. These facets of the gas resource exploration, evaluation and production processes should govern the timing and need for larger scale permitting considerations; not the “intention” of the exploration boring.</p> <p>Thank you in advance for considering my input on a burgeoning industry in the State of Minnesota. Similar to the GTAC, I am on a steep learning curve with respect to new gas exploration concepts and possibilities in this state. However, it is critical that Minnesota consider the rule making process surrounding regulation of this industry carefully in the pursuit of safe, effective and efficient regulatory frameworks.</p> <p>Cheers, gabe</p>
<b>Input submitted using the on-line form</b>	
12/2/2024 9:34:12 AM	<p>We prefer our country and all 50 states (MN included) to strive for energy independence! This involves safe mining, derilling, trenching, disposal of sludge.....we cannot afford to be a raw inporter of miinerals that we already own.</p> <p>Mike and Ilyne Rasmussen</p>
12/3/2024 6:14	<p>I work for MnDOT in permitting in District 1. This will potentially impact MnDOT with access permits. I was unable to open the link to the draft to view it.</p>
12/3/2024 9:32	<p>My input is short:</p> <p>Minnesota does not regulate above ground mining and oil/gas pipelines to protect watershed and aquifer resources.</p>
12/9/2024 10:37:55 AM	<p>If we can't ensure the state’s natural resources, then it's no go! MNDNR</p>
12/14/2024 4:59:24 PM	<p>Comment on GTAC gas exploration and production guidelines:</p> <p>In general, who can understand the red tape, much less comply, in a timely manner and at reasonable expense to a 5 agency and legislative bureaucratic process to allow a company to explore and produce gas in Minnesota? Just reading the requirements, which don’t include details, is enough to turn any beneficial business away that could possibly benefit Minnesotans. For both the use of the product and jobs created. Not to mention taxes and fees to the State.</p> <p>The regulations and process to obtain the permits are beyond complicated, burdensome, and costly to the point of absurdity. Duplicity and multi-agency requirements is a bureaucracy nightmare. Unlike government agencies, who never pay the price for their irresponsibility, lack</p>

Date/Time	Input
	<p>accountability, and have no bottom line to be held to, businesses live in a world where these issues matter for survival. Keep in mind, the State's unnecessary expensive red tape is reflected in the final product cost to consumers and subject to market forces. The public pays for these inefficiencies. We who also pay your salaries as well.</p> <p>Everyone understands that safeguards must be in place to prevent environmental degradation from negligent or accidental mishaps or processes by mining companies. Also, that there are many "i's" to be dotted and "t's" to be crossed to insure mining companies comply and act responsibly to safeguard the land and water as well as restore the land to its original state. But overkill hurts everyone. Except the Government who just levies taxes to cover their deficiencies and duplications.</p> <p>My suggestion is to task GTAC, and the other agencies, to meet first to eliminate their existing process and redefine it to a model where the inefficiencies are eliminated and the process simplified to a sane level that the business world has to survive in. All with achieving the goal that was intended at the start. This would require having one agency and eliminating the others along with the employees. Consider and identify "one" list of what the State needs in requirements from the mining company to comply with and the safeguards they must provide. Guaranteed and bonded. No different than what a state employee would hope to have to do if it were their dime and time being spent personally for their own endeavor.</p> <p>The idea the State thinks we can survive without mining and other uses of natural resources for the public needs for fear of "harming the environment", is living in a vacuum and a fictitious ideology. The two can coexist.</p>
12/16/2024 9:45:21 AM	<p>Automatically deferring to industry experts has to be unacceptable. Critical examination of their inputs by in-house or academic experts should be required. Industry representatives have a fiduciary responsibility to maximize profits for their shareholders - not to protect the public or insure appropriate compensation to the state for the resources being exploited.</p>
12/21/2024 9:19:57 PM	<p>R.E. GTAC draft recommendations / statutory language :</p> <p>I did not see any mention of the chemicals used in drilling, like PFAS which could contaminate the water aquifer in the area. Which chemicals are being used in this operation? Are they a danger to our water supply here?</p> <p>Is the carbon coming from this deposit being sequestered and used commercially or being released into the atmosphere?</p> <p>Increased traffic on the Dunka River Road will cause wear and tear on that US Forest Service road and there will be increased traffic on Lake County Highway #2, which is severely subject to frost heave and is in much need of repair already from White Pine picnic area up to the Greenwood Lake access area. Who is going to pay for that?</p> <p>Zeke Delz</p>
12/23/2024 3:11:46 PM	<p>General input from the Natural Resources Research Institute, University of Minnesota:</p> <ul style="list-style-type: none"> <li>It is important to distinguish between trapped or "natural" geological hydrogen and "induced" geological hydrogen. While the former may be accessible via conventional methods</li> </ul>

Date/Time	Input
	<p>similar to those used for natural gas, the latter is the hypothetical product of induced reactions in-situ between pumped high-pressure steam and catalysts and existing geological formations and thus may require additional regulatory attention. Hydrogen from either source will need to be collected and piped to the surface where it can be cleaned, used, or stored.</p> <ul style="list-style-type: none"> <li>• The extracted gaseous mixture will consist of hydrogen, water vapor, carbon dioxide, methane, hydrogen sulfide, and other gases. Beneficiation of the gas mixture will involve removal and potentially, purification of non-hydrogen constituents, which may have value in and of themselves. All gas constituents will need to be properly managed under appropriate regulatory oversight.</li> <li>• Underground storage of hydrogen could be achieved using natural or manufactured hard rock cavities, or cavities produced by natural and induced geological hydrogen production, provided that these cavities were naturally or artificially lined or otherwise sealed and isolated from potential reactants or contaminants. Porous, non-reactive rocks at or near the surface might also be appropriate for hydrogen storage, if they were similarly sealed and isolated from reactants and contaminants.</li> <li>• Issues associated with hydrogen leakage, reactivity, and metal embrittlement must be considered for any storage, transfer, and delivery of natural and induced geological hydrogen.</li> </ul> <p>R.T, Weberg, Executive Director, NRRI</p>
<p>12/23/2024 4:47:22 PM</p>	<p>Public Comments on GTAC Recommendations and Statutory Language for Permitting Gas Resource Development</p> <p>Submitted by Area Partnership for Economic Expansion (APEX)</p> <p>APEX appreciates the opportunity to provide feedback on the GTAC recommendations. We believe Minnesota’s potential helium and hydrogen resources represent a unique opportunity for our communities and economy. We are committed to environmental stewardship and industrial investment with a goal of regional vitality.</p> <p>Our concerns in the proposed GTAC language fall into four main categories:</p> <ol style="list-style-type: none"> <li>1. Environmental Review for Exploration Drilling</li> </ol> <p>APEX is concerned about the requirement for mandatory environmental reviews for exploration drilling of gas resources, as outlined in the GTAC recommendations. This requirement is not imposed on any other type of exploration drilling in the state. The Environmental Quality Board (EQB) recommends a mandatory Environmental Assessment Worksheet (EAW) for any gas resource development project, including exploratory drilling (EQB-1). This places an undue burden on gas exploration activities, which are typically less impactful than full-scale production operations. We urge the GTAC to reconsider this requirement and align the environmental review process for gas exploration with that of other exploration activities in the state to ensure a fair and consistent regulatory framework.</p> <ol style="list-style-type: none"> <li>2. Excessive Fees for Helium and Hydrogen Exploration</li> </ol>

Date/Time	Input
	<p>The proposed fees for helium and hydrogen exploration are excessively high. The Department of Natural Resources (DNR) recommends a \$50,000 application fee and a \$75,000 annual permit fee for gas resource development projects (DNR-7). These fees are disproportionate to the scope and scale of this activity, particularly at the exploration level. We recommend that the GTAC adjust the fee schedule to reflect the lower impact and scale of gas exploration activities and differentiate between exploration and production permits. The size of production operations is yet to be determined and this ensures that the fees are fair and do not discourage investment in this emerging sector.</p> <p>3. Requirement for Gas Companies to Pay for Environmental Assessment Worksheets (EAWs)</p> <p>APEX questions the requirement for gas companies to bear the costs of preparing, reviewing, and distributing Environmental Assessment Worksheets (EAWs), as recommended by the DNR (DNR-12). This requirement is unique to the gas industry and is not imposed on any other industry or project in the state. The costs associated with EAWs can be substantial and place an additional financial burden on gas companies, potentially hindering the development of gas resources. We urge the GTAC to reconsider this requirement and explore alternative funding mechanisms for EAWs.</p> <p>4. Fee Transparency</p> <p>APEX seeks transparency regarding how permitting revenue will be allocated, particularly given these funds are directed to the state's general fund without clear usage guidelines. We request a detailed explanation of how these fees will support specific activities not already covered by existing state funding or permitting revenues.</p> <p>APEX represents nearly 100 investor companies in Northeast Minnesota and Northwest Wisconsin. We are deeply committed to creating a sustainable future that balances environmental protection with economic vitality. While we appreciate the need to craft a regulatory structure around an emerging resource extraction industry, we believe the most productive path forward is one that:</p> <ul style="list-style-type: none"> <li>• Maintains clear, focused environmental goals</li> <li>• Recognizes the technical approaches and environmental impacts of the hydrogen and helium extraction processes</li> <li>• Supports continued economic growth and community health and well-being</li> </ul> <p>We are grateful for the opportunity to provide input on this important rulemaking process and look forward to continuing this critical dialogue.</p> <p>Rachel Johnson President &amp; CEO</p>
12/23/2024 9:12:01 PM	As a neighbor to Pulsar Helium's exploratory well site, 3.5 miles away near Sand Lake, it was evident when the Q124 exploratory drilling was occurring. The 24 hour boring was very



Date/Time	Input
	<p>audible and the lights illuminated the night sky. I encourage those reviewing future permit applications to consider this exploratory testimony, as well as proposed future operations associated with the extraction, processing and transportation of the product(s). Questions might include: Will there be guard rails around operations (sound and light levels, days of the week, hours, etc...). Will processing occur on site and, if not, at which location? Will the Dunka River Rd be developed to the east? More broadly, what infrastructure upgrades/maintenance may be required of Lake County or the State of Minnesota?</p> <p>116D.04 Subd. 16a. As the Responsible Govt Unit (RGU) the MN DNR will be responsible for determining if a Environmental Assmt Worksheet (EAW) is sufficient or whether an Environmental Impact Statement (EIS) will be required. The distinction between the two is "may have" potential for significant environmental effects or "does have" the potential... Which department within the DNR will be making this key recommendation and whom within the DNR ultimately makes the determination between "may" and "does"? Please confirm this determination will be made after examining the EAW worksheet. Interested, because the DNR has the difficult job of balancing sometimes conflicting duties of environmental stewardship and financial fiduciary obligations to the taxpayers, school trusts, etc...</p>
<p>12/23/2024 9:32:16 PM</p>	<p>Thank you for the opportunity to provide feedback on the draft temporary framework to regulate gas resources like helium extraction. As Anishinaabeg, one of our responsibilities is to care for the next seven generations, ensuring that they have the resources they need to thrive and survive. I would like to highlight a key concern: this helium deposit is being considered primarily to support the ongoing, unsustainable consumption of a nonrenewable resource. The focus should not solely be on maintaining current helium usage, but on questioning whether such consumption is responsible in the first place.</p> <p>As the governmental agencies entrusted with the regulation and responsible management of our natural resources, I urge your team to consider this crucial question: Is this mining truly necessary at this moment, or should this helium reserve be preserved for future generations who may need it far more than we do today? Currently, our society is wastefully consuming this finite resource—shouldn't we first evaluate our consumption patterns and work toward using it more responsibly before expanding extraction?</p> <p>The issue of responsible consumption is at the heart of many of the environmental challenges we face today. I often wonder: Will this generation continue to take without regard for those who come after us, depleting the Earth's resources until there is nothing left to offer? Or will we pause and recognize that not every underground resource needs to be extracted simply because we have the ability to do so? The future hinges on the choices we make today.</p> <p>I challenge you to think beyond the present moment. Could your children or future generations rely on helium for critical medical devices? Perhaps this deposit should be preserved for those who may need it far more in the future. The decisions we make now will shape the world they inherit.</p> <p>I recognize that the statement above may not serve as the wake-up call needed to halt this mine's progress. However, in the spirit of providing constructive comments, I offer suggestions that could strengthen the process and ensure the health of both the people and the land surrounding this area are properly protected.</p>

Date/Time	Input
	<p>First and foremost, I urge the state of Minnesota and its governmental agencies to fully engage in consultation, as mandated by law. Minnesota State Statute 10.65 clearly defines "consultation" as the direct and interactive involvement of Minnesota's Tribal governments in the development of policies that have Tribal implications. Consultation is not a passive process—it is a proactive and affirmative one, requiring the identification and active engagement of relevant Tribal governments, with their interests being considered as an integral part of the decision-making process.</p> <p>Consultation should have occurred before any drills were placed in the ground. It is critical that consultation, and ultimately consent, take place to ensure that Tribal nations have the authority and opportunity to protect their people, their lands, and the generations that follow. This process is not only a legal requirement but a moral imperative to respect the rights and sovereignty of Tribal nations.</p> <p>The process of extracting helium from the ground should trigger a comprehensive environmental impact statement (EIS), particularly given the potential environmental and public health risks associated with its extraction.</p> <p>Given the potential presence of harmful contaminants, the extraction of helium should trigger an EIS under the National Environmental Policy Act (NEPA). An EIS is essential for assessing the full range of environmental and public health impacts associated with helium extraction. This should include, but not be limited to:</p> <p><b>Radon and Radioactive Material Mitigation:</b> If helium is being extracted from areas with known radioactive contamination, an EIS should assess the measures required to mitigate the release of radon and other radioactive isotopes. This includes air quality assessments, potential soil contamination, and risks of groundwater contamination.</p> <p><b>Water and Soil Contamination:</b> The extraction process may involve fracking or drilling, both of which carry risks of disturbing existing contaminants or introducing new chemicals into the environment. An EIS would need to evaluate the potential for groundwater contamination, changes in local water quality, and impacts on surrounding ecosystems.</p> <p><b>Air Quality Impacts:</b> Helium extraction sites may release various gases, including methane, carbon dioxide, and potentially volatile organic compounds (VOCs), which can contribute to air pollution and will contribute to greenhouse gas emissions which are currently fueling climate change. An EIS would assess the potential for these pollutants to affect local air quality and public health, especially in communities near extraction sites. Assessing how this mine may fuel the climate crisis also deserves acknowledgement.</p> <p><b>Biodiversity and Ecosystem Health:</b> An EIS would also evaluate the impact of extraction on local ecosystems, especially if the extraction site is in a sensitive or biodiverse area. Disturbing the land, water, or air around extraction sites can have cascading effects on local wildlife, plants, and the broader ecosystem.</p> <p><b>Public Health Considerations:</b> Any risks posed to surrounding communities, especially those that rely on local water sources or live in close proximity to extraction sites, must be assessed. The release of contaminants, the risk of radon exposure, and the potential for other health impacts must be thoroughly evaluated in an EIS.</p>

Date/Time	Input
	<p>An EIS would not only ensure compliance with environmental laws and regulations but also provide transparency, allowing for a broader public discussion about the environmental and health consequences of helium extraction. This process would allow stakeholders, including local communities, tribal nations, and environmental groups, to provide input and ensure that the potential risks associated with this activity are carefully evaluated and addressed before any extraction takes place.</p> <p>The Minnesota Pollution Control Agency (MPCA) should serve as the Responsible Governmental Unit (RGU) for overseeing the regulatory processes associated with this helium extraction project. The MPCA is tasked with the critical responsibility of ensuring that Minnesota's natural resources are protected from pollution, and that public health is safeguarded from environmental hazards. This responsibility encompasses a wide range of issues, including air and water quality, waste management, and land reclamation. Given that this helium extraction project has the potential to release harmful contaminants into the environment, the MPCA's involvement is necessary to assess and mitigate any risks associated with the operation.. This oversight is not only necessary for compliance with Minnesota's environmental laws but also essential to uphold the health and safety of both current and future generations.</p> <p>Tribal Nations must be fully compensated for both the potential damages to their treaty resources and the costs associated with studying the impacts of this helium mine. Moreover, any profits generated from this extraction should be shared with Tribal stakeholders. The land beneath which this helium deposit resides is part of the ancestral treaty territories of Tribal Nations. While these treaties were often negotiated under duress and in inequitable conditions, they nevertheless established the legal foundation for Tribal land and resource rights. These agreements recognize the rights of Tribal Nations to hunt, fish, gather, and protect their resources across vast territories, including those that may be impacted by this proposed mining operation.</p> <p>Moreover, Pulsar, the company interested in helium extraction, has stated that mining will not begin for over a year. This presents a valuable opportunity to develop a robust regulatory framework that ensures the responsible management of Minnesota's resources. During this time, it is essential to prioritize the protection of Tribal sovereignty, uphold the rights of Tribal Nations, and safeguard the health of both people and the planet. The focus must be on ensuring that the well-being of communities and the environment are prioritized over corporate profits. This is a critical moment to ensure that any mining activities and future gas extraction are conducted with respect for our natural resources and the rights of those who have long cared for them.</p> <p>Miigwech for considering my comments. I trust they will be given serious consideration throughout this process.</p> <p>Leanna Goose</p> <p>Co-Facilitator, Rise and Repair Coalition</p>

Thank you for the opportunity to provide input on the Gas Technical Advisory Committee (GTAC) [reports and recommended legislative language](#). My name is Aaron Klemz, and I am the Chief Strategy Officer at the Minnesota Center for Environmental Advocacy (MCEA). These comments are made in my personal capacity and do not necessarily represent the position of MCEA.

In the interest of brevity, I will confine my comments to the proposed legislative language. I have five recommendations that will be developed below:

- 1) Include a fixed, temporal term for temporary and permanent permits issued to Gas Resource Development projects
- 2) Specify the percentage of tax paid on gross proceeds for helium and other products in Minnesota Statutes 2024, section 298.015, subdivision 1 in time for public input
- 3) Delete or modify declarations of state policy in the legislation (Section 2, 93.5121 Declaration of Policy and Section 10, 93.5171 Declaration of Policy)
- 4) Account for the possibility of an Environmental Impact Statement and eliminate confusion about whether an Environmental Assessment Worksheet will be required after the adoption of permanent rules
- 5) Clarify that permits issued under the temporary framework must be reissued in accordance with the newly adopted rules, and are not grandfathered in perpetuity

### **1) Clarify that permits issued have a temporal term and set a maximum temporal term for permits**

As the Minnesota Supreme Court found in *IN RE: the NORTHMET PROJECT PERMIT TO MINE APPLICATION DATED DECEMBER 2017, and In the Matter of the Applications for Dam Safety Permits 2016-1380 and 2016-1383 for the NorthMet Mining Project*, Minn. Stat. § 93.481, subd. 3(a) requires a fixed, temporal term. The language in 93.481, subd. 3(a) is very similar to the language proposed for subd. 4 of 93.5174. This should be changed to reflect the Minnesota Supreme Court decision and provide clarity of the length of term for permits issued.

Minn. Stat 93.481, subd. 3(a):

“A permit issued by the commissioner pursuant to this section shall be granted for the term determined necessary by the commissioner for the completion of the proposed mining operation, including reclamation or restoration.”

Proposed Minn. Stat 93.5174, subd. 4:

“A permit issued by the commissioner pursuant to this section must be granted for the term determined necessary by the commissioner for the completion of the proposed gas resource development plan, including reclamation or restoration.”

### **The Minnesota Supreme Court found:**

“In sum, we conclude that the meaning of “term” in Minn. Stat. § 93.481 refers to a fixed period of time covering a precise number of years. And we agree with the court of appeals that the DNR erred in issuing a permit that did not include a fixed term.”

To avoid a similar situation, the legislative language for gas permitting should require a term of a “fixed period of time covering a precise number of years.” Revising the language of 93.5174 subd. 4 to clarify this would avoid confusion about the meaning of the word “term.” In addition, as the Minnesota Supreme Court noted, this does not deprive the Minnesota Department of Natural Resources of the ability to enforce the law outside of the permit term. By requiring a term of, for example, 10 years, there would be a regular period for review of the effectiveness of permit conditions, and the chance to make revisions in response to changing circumstances. Comparable environmental permits issued by the Minnesota Pollution Control Agency, such as National Pollutant Discharge Elimination System water permits, have a term of five years.

Lastly, since there is confusion elsewhere in regard to the permit conditions that would apply to a permittee who received a permit under the temporary framework (see item 5 below), it would be good to ensure that all permits issued under this section expire, and must be renewed. This is consistent with many other environmental permits, which also have fixed terms, expire, and must be renewed in a public process.

**RECOMMENDATION: Insert “of ten years” or other fixed time after “term” in the proposed language for Minn. Stat. 93.481, subd. 4.**

**2) Provide actual figures for the tax rate paid by helium or other gas in time for public comment and review**

The proposed legislation amends Minnesota Statutes 2024, section 298.015, subdivision 1 to set a tax rate for helium products and two other gas products that are left blank. It’s common practice for draft legislation to leave blank figures to be determined later. In this case, though, the tax rate for helium is of public interest, and the use of a blank placeholder here makes it impossible to comment on whether the proposed tax rate is fair. In addition, the two blank products below it are also items that should be available for the public to comment on before the legislation is introduced.

**RECOMMENDATION: Insert a specific number for the percentage of tax paid for helium and any other specific gas product, and make that available upon the revision of the proposed legislation and before the completion of the January 15th report to the Legislature.**

**3) Either delete or modify Declarations of Policy in the proposed legislation**

The proposed legislation contains several declarations of policy and statements of legislative intent. In my interactions with legislative staff over the last few years, I’ve been told that such declarations are discouraged by the Office of the Revisor, as they are unnecessary and lack the force of law. However, I have also seen declarations of this sort used in the justification for the issuance of a nonferrous permit to mine. For example, see finding 1 of Northmet Project Permit to Mine Findings of Fact, Conclusions, and Order of the Commissioner (page 1):

“It is the policy of the state to provide for the diversification of the state’s mineral economy through long-term support of mineral exploration, evaluation, environmental research, development, production, and commercialization.” Minn. Stat. § 93.001; cf. Minn. Stat. § 93.43(a) (“The business of mining, producing, or beneficiating nonferrous metallic minerals is declared to be in the public interest and necessary to the public welfare, and the use of property therefore is declared to be a public use and purpose.”). To effectuate this policy, the DNR has been granted the authority to issue nonferrous permits to mine.

As you can see, the language in similar declarations of policy have been used as the basis for permitting authority for nonferrous mining. Therefore, if a declaration (or declarations) of state policy are included in the proposed legislation it should make it clear that it is the policy of the state to protect Minnesota resources and the health of its people.

Here is the current proposed language:

Section 2. 93.5121 DECLARATION OF POLICY

It is the policy of the state to provide for the beneficial and orderly development of the state's gas resources through laws and policies that prevent waste, avoid the drilling of unnecessary wells, protect correlative rights, and provide for the reclamation of gas resource development locations in a manner that controls adverse environmental effects.

**RECOMMENDATION: Either delete Minn. Stat. 93.5121 from the proposed legislation or add “, protects natural resources, and protects public health.” to the end of the declaration.**

Similar to the above section, I recommend the removal of Minn. Stat. 93.5171, the declaration of state policy regarding the reclamation of gas resource development locations. There should be specific standards included in the draft legislation and the rules to be developed about reclamation, which renders this declaration unnecessary. If the declaration remains, it should be amended to remove “and recognizing the beneficial aspects of gas resource development.” This statement is unnecessary, not actionable, and not relevant to this section of the legislation. As currently proposed, this section reads:

Section 10. 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 where such reclamation is necessary, both in the interest of the general welfare and as an exercise of the police power of the state, to control possible adverse environmental effects of the development of gas resources, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of gas resources, the encouragement of good

gas resource development practices, and recognizing the beneficial aspects of gas resource development.

**RECOMMENDATION: Delete 93.5171 as a whole, or delete “and recognizing the beneficial aspects of gas resource development.”**

**4) Account for the possibility of an environmental impact statement for a gas development proposal in the proposed legislation**

There are a number of places in the proposed legislation where an environmental assessment worksheet (EAW) is mentioned, but no mention of an environmental impact statement (EIS). This should be corrected to allow for the state to recoup the cost of an EIS if one is ordered (either by the Minnesota DNR or a court,) as well to clarify the possibility of an EIS being ordered if “there is the potential for significant environmental effects” (Minn. Stat. 116D.04, subd. 2(a)).

The intent of the addition of subd. 16(a) to Minn. Stat. 116D.04 appears to be implementing the GTAC recommendation of the Minnesota Environmental Quality Board (EQB) to “require a mandatory environmental assessment worksheet for any gas resource development project.” I appreciate the recognition that while rules are being developed (including any mandatory category environmental review rules), the draft legislation should eliminate confusion about whether this sort of development will require an EAW. I also appreciate the EQB’s statement that “requiring an EAW for any gas project as a part of the interim temporary framework allows the EQB and permitting agencies to gather information about potential environmental effects, supporting future work to further develop a mandatory category in rule that includes a scientifically supported size threshold for the type of projects expected to take place in Minnesota.” However, the statute can and should establish that an EAW is required for all gas development proposals, before and after completion of rulemaking.

**RECOMMENDATION: Delete “Until a final rule is adopted,” from the proposed subd. 16(a) to Minn. Stat. 116D.04.**

In addition, there are other sections of the proposed legislation that require the applicant to reimburse the State for the cost of conducting an EAW, but do not include a requirement to pay for an EIS. For example, from the proposed legislation:

Section 18. 93.5177 ENVIRONMENTAL REVIEW FEES.

Subdivision 1. Assessment. The commissioner of natural resources must assess a gas resource development permit applicant the reasonable costs of preparing, reviewing, and distributing the associated environmental assessment worksheet through the Record of Decision, as required by (EQB draft statute number). The applicant and the commissioner must enter into a written agreement to cover the estimated costs to be incurred by the commissioner.

Subd. 2. Full cost to be paid. The commissioner must not commence the preparation of an environmental assessment worksheet until the full assessed cost of the environmental assessment worksheet is paid pursuant to subdivision 1. Other laws notwithstanding, no state agency may issue any permits for the development of gas resources for which an environmental assessment worksheet is prepared until the final assessed cost for the environmental assessment worksheet has been paid in full.

To eliminate confusion and to ensure that the Minnesota DNR is reimbursed for the cost of preparing an EIS if one is required, this section should be revised to add “and/or EIS.”

**RECOMMENDATION: Insert “and/or environmental impact statement if required” after “environmental assessment worksheet” in Minn. Stat. 93.5177 subd. 1 and subd. 2.**

**5) Clarify that once rules are established permits issued under the temporary framework must be reissued in accordance with the newly adopted rules, and are not grandfathered in perpetuity**

The proposed legislation would result in permits issued under the temporary framework remaining valid in perpetuity, while standards developed under the rulemaking would not apply to the permit. This is found in the proposed legislation under Section 14, Minn. Stat. 93.5174 Gas Resource Development Permit:

Subd. 2. Permits issued during rulemaking. A gas resource development permit issued during the pendency of expedited rulemaking authorized under 93.514 will not expire once those rules are promulgated, so long as the person holding that permit continues to operate under permitted conditions. Should a person holding such a permit apply for a permit amendment after rules are promulgated, the promulgated rules will apply to operations covered by both the amendment and the original permit, and the application for a permit amendment must include such information as the commissioner may require as in subdivision 1 and in accordance with promulgated rules for the entire project.

In combination with the lack of a fixed, temporal term to the permit, and the irrevocable nature of permits issued, this subdivision could incentivize a rush to apply for temporary permits before rules are adopted. It could disincentivize applying for needed permit amendments to preserve the grandfathered temporary permit. It could also lead to slower adoption of permanent rules since there will not be pressure to complete the rulemaking from the regulated party. None of these are desirable conditions.

There is a need for regulatory certainty, and a reasonable case can be made for a period of time after the adoption of permanent rules for a temporary permittee to receive a permit under those rules. But the current language is too permissive.

**RECOMMENDATION: Replace “will not expire once those rules are promulgated” with “will expire three years after those rules are promulgated” in Minn. Stat. 93.5174 subd. 2.**



**RECOMMENDATION: Include a fixed, temporal term of 10 years or less for all permits issued (either temporary or under the permanent rules.)**

Thank you for the opportunity to comment on the recommendations of the Gas Technical Advisory Committee and the proposed legislation. Please feel free to contact me if you have questions about these comments.

Sincerely,

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