



117 South First Street • Montevideo, MN 56265

March 20, 2025

Chair Hawj
Senate Environment, Climate, and Legacy Committee
Re: S.F. 2530

Chair Hawj 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 testify in opposition to S.F. 2530.

We previously provided input on the Gas Resources Technical Advisory Committee (GTAC) Final Recommendations Report where we explained our concerns about the proposed legislation in that report.¹ Because these sections appear unchanged in S.F. 2530, we reiterate our comments here.

First, the language regarding contested cases in Section 15 of the bill is inconsistent with Minnesota and federal law. The petition process referenced in that section is written to be limited to affected property owners and federal/state/local government units with impacted responsibilities. This fundamentally undercuts the existing right of the public—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,² the 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.³ 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.

¹ Available at <https://www.house.mn.gov/comm/docs/DsKP8IlgikeMLJ110cEJ1g.pdf>.

² 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 (last visited Feb. 10, 2025).

³ 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).



Second, the bill provides no explicit controls on PFAS chemical use in drilling, even though serious concerns were raised by commenters on this topic.⁴ Because drilling fluids are an industrial use, not a consumer product, Minnesota’s law is currently far too weak on PFAS contamination that may follow this industry. 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.

CURE also shares the concerns raised by MCEA in previous testimony regarding the absence of a fixed, temporal term for permits. Allowing the issuance of perpetual permits would invite potentially costly and lengthy legal challenges. Nor should permits granted under the temporary framework be grandfathered into the standards developed under a forthcoming rulemaking. Finally, CURE agrees that before this legislation or any rulemaking is conducted, the state must conduct government-to-government consultation with Tribal Nations who have treaty rights, cultural or historical sites that may be impacted, or any other source of jurisdiction over impacted lands. Tribes’ unceded rights to profits from gas extraction should be negotiated, and any revenues from this industry should be shared fairly with the prior stewards of this land who still have a significant interest in it.

In addition to the above, CURE is also concerned to see that the bill includes DNR’s recommendation to allow for the utilization of state wilderness lands for commercial utilization of gas resources “developed without disturbing the surface.” Frankly, Minnesota does not have the knowledge or experience to be able to determine whether a specific gas extraction activity will disturb the surface of a state wilderness area until the damage is already done, at which point it will be too late. It is also concerning that without any real analysis of potential impacts, the law allows for directional drilling within a short distance of our federal and state parks, the Boundary Waters Canoe Area Wilderness, irreplaceable calcareous fens, and locations of high scientific and historic value that could be damaged forever—for example by the injection of unregulated PFAS chemicals into groundwater. This part of the law, allowing for development near protected areas, should be abandoned unless and until the DNR completes a programmatic environmental review (normally referred to as a Generic Environmental Impact Statement) that would properly assess and mitigate harms to wilderness areas, parks, and other protected public lands and endangered fens.

S.F. 2530 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,

⁴ For example, researchers have found that PFAS are used and injected underground in similar industrial exploration and production in Texas. See 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/>; 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/>.

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 make 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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