

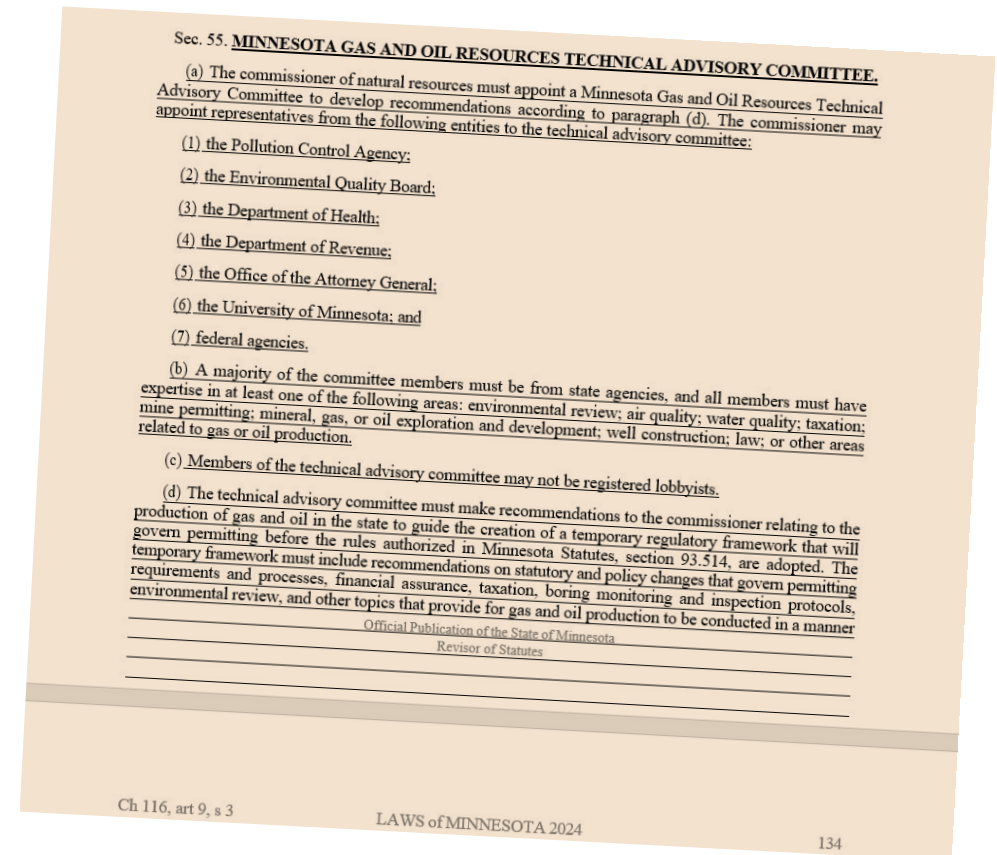


# Overview of DNR Recommendations for Building a Temporary Regulatory Framework for Gas Production

# 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.*

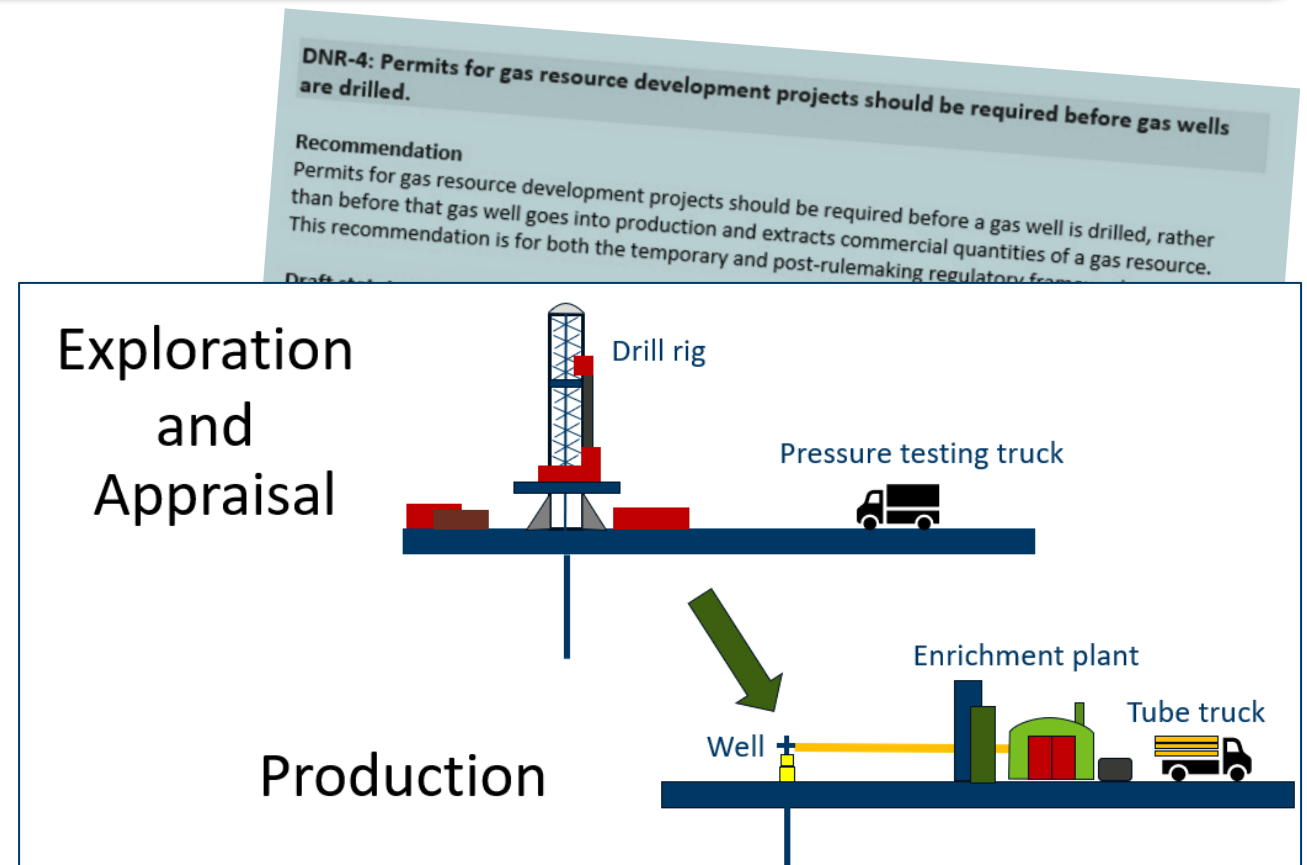
*Subd. 6. **Exploration and Production Waste.** (E&P Waste) Exploration and Production Waste (E&P Waste) shall mean those wastes associated with operations to locate or remove gas from the*



# 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.



# 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 years. Environmental review and permitting take place at drilling takes place. DNR recommends that the locations, including proximal ancillary buildings such as a gas well’s drill pad.

Form 2A  
Oil and Gas Location Assessment

Click here to reset form  
State of Colorado  
Oil and Gas Conservation Commission  
1120 Lincoln Street, Suite 801, Denver, Colorado 80202 Phone: (303)884-2100 Fax: (303)884-2109

☐ New Location ☐ Amend Existing Location Location #:

Submit original plus one copy. This form is to be submitted to the COGCC prior to any ground disturbance activity associated with oil and gas development operations. This assessment may be approved as a stand alone application or as an informational report accompanying an Application for Permit To Drill. Part 2. Approval of this assessment will allow for the construction of the below specified location; however, it does not supersede any land use rules applied by the local land use authority. This form may serve as notice to land owners and other interested parties. Please see the COGCC web site at <http://oilandgas.gov/colorado> for all accompanying information pertinent to this Oil and Gas Location Assessment.

1. Consultation  
☐ This location is included in a Comprehensive Drilling Plan. CDP # \_\_\_\_\_  
☐ This location is in a sensitive wildlife habitat area.  
☐ This location is in a wildlife restricted surface occupancy area.  
☐ This location includes a Rule 306.d (1)(a) variance request.

2. Operator  
Operator Number: \_\_\_\_\_ Suffix: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

3. Contact Information  
Name: \_\_\_\_\_  
Phone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_

4. Location Identification:  
Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Section: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_ Meridian: \_\_\_\_\_  
Define a single point as a location reference for the facility location. This point should be used as the point of measurement in the drawings to be submitted with this application. When the location is to be used as a well site from the point shall be a well location.  
Postage at surface: \_\_\_\_\_ feet, from North or South section line \_\_\_\_\_ and \_\_\_\_\_ feet, from East or West section line \_\_\_\_\_  
Latitude: \_\_\_\_\_ Longitude: \_\_\_\_\_ PDOP Reading: \_\_\_\_\_ Date of Measurement: \_\_\_\_\_  
Instrument operator's name: \_\_\_\_\_

5. Facilities (Indicate the number of each type of oil and gas facility planned on location)

Facilities	Indicate the number of each type of oil and gas facility planned on location
Drilling Pits	_____
Condensate Tanks	_____
Pump Jacks	_____
Flaring Station	_____
Other	_____
Drilling Pits	_____
Water Tanks	_____
Cavity Pumps	_____
Gas Pipeline	_____
Separators	_____
Electric Motors	_____
Oil Pipeline	_____
Production Pits	_____
LACT Unit	_____
Sets or Diesel Motors	_____
Multi-Well Pits	_____
Dehydrator Units	_____
Gas Compressors	_____
Electric Generators	_____
Flare Tanks	_____

# 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 plugging orphaned gas wells or reclaiming gas resource development locations 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 reclamation framework for gas resource development projects. It does, however, have a framework for nonferrous metallic mining projects. Mn Rules Chapter 6132.1200 provides financial assurance requirements for nonferrous metallic mining projects. This recommendation proposes modifications as needed for gas resource development projects. This includes:

- a degree of financial assurance
- statutory framework
- statutory framework

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 for a gas 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 the same as the scope of the financial assurance requirements for nonferrous metallic mining projects.



**Office of the Revisor of Statutes**  
Retrieve by number Statutes GO Statutes Laws Rules Court Rules Constitution Revisor's Office Search Law by Keyword  
2024 Minnesota Statutes > LANDS AND MINERALS > Chapter 93 > Section 93.49  
93.49  
93.49 FINANCIAL ASSURANCE OF OPERATOR.  
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.  
History: 2024  
**Office of the Revisor of Statutes**  
Retrieve by number Rules GO Statutes Laws Rules Court Rules Constitution Revisor's Office Search Law by Keyword  
Rules > Natural Resources Department > Chapter 6132 > Part 6132.1200  
6132.1200  
**Minnesota Administrative Rules**  
6132.1200 FINANCIAL ASSURANCE.  
Subpart 1. **Purpose.** The purpose of financial assurance is to ensure that there is a source of funds to be used by the commissioner if the permittee fails to perform:  
A. reclamation activities including closure and postclosure maintenance needed if operations cease; and  
B. corrective action as required by the commissioner if noncompliance with design and operating criteria in the permit to mine occurs.  
Subp. 2. **Contingency reclamation cost estimates.** Persons intending to conduct a mining operation shall submit, as part of the application for a permit to mine, a documented estimate of costs necessary to implement the contingency reclamation plan under part 6132.1300, subpart 4. This estimate shall include closure and postclosure maintenance

# 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 not 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 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.

## Temporary Permits

### Draft statute

### Rationale

The enacted statute instructs the legislature to issue permits under a temporary regulatory framework. The phrase "temporary" is used to describe the permit, but it is not clear that a permit issued under a temporary regulatory framework is intended to expire once rulemaking is completed. The DNR recommends that the word "temporary" be removed from the phrase "temporary permit," to make clear that a permit issued under a temporary regulatory framework should remain valid after the completion of the rulemaking process.

The phrase "temporary" is used to describe the permit, but it is not clear that a permit issued under a temporary regulatory framework is intended to expire once rulemaking is completed. The DNR recommends that the word "temporary" be removed from the phrase "temporary permit," to make clear that a permit issued under a temporary regulatory framework should remain valid after the completion of the rulemaking process.

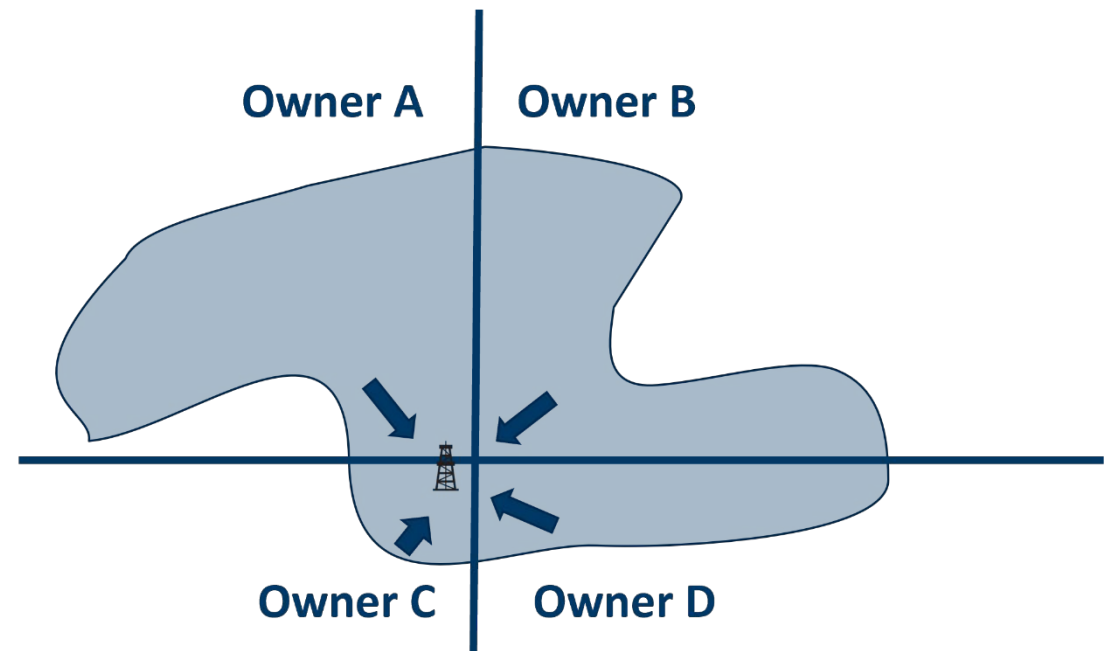
framework, b) a permit that is revoked once rules are promulgated, and the temporary regulatory framework is replaced by a permanent framework, or c) the permit is only valid for a fixed period of time, irrespective of the term requested by the permittee (93.5174, Subd. 4.). The DNR recommends that the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



# 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.



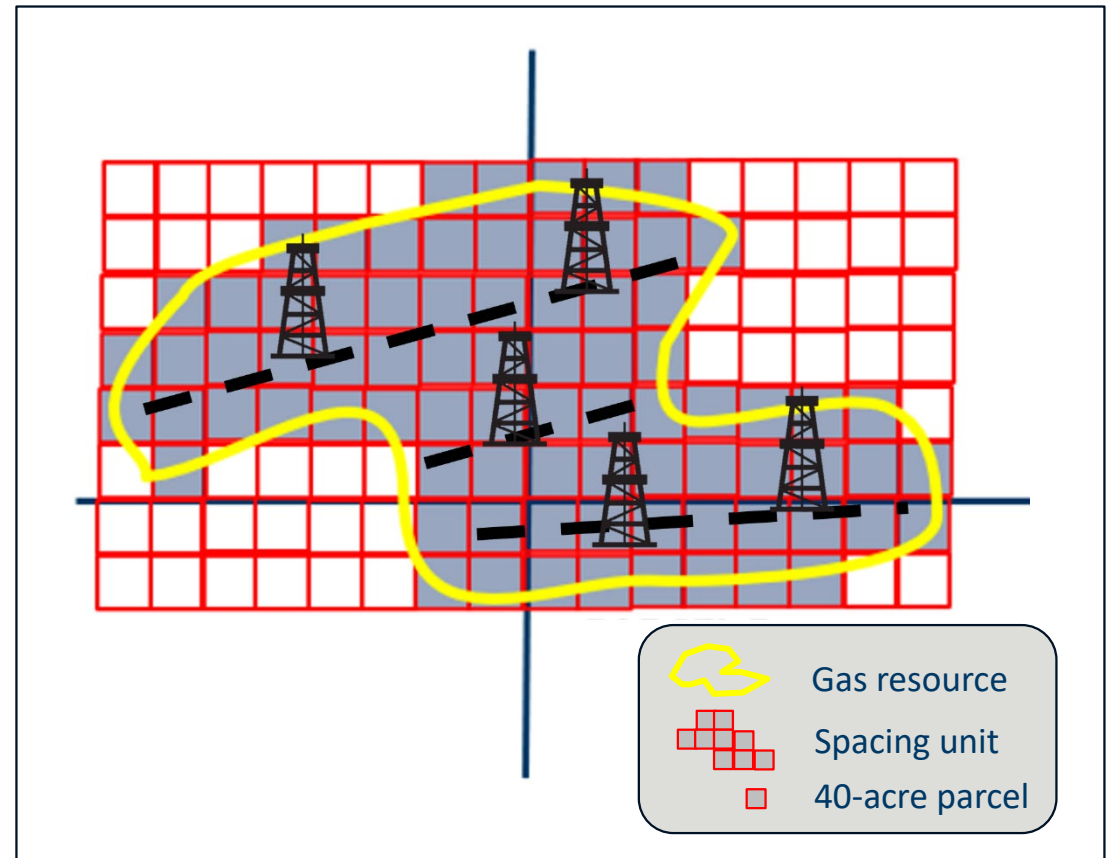
Owner C only owns 5% of mineral interests tied to the gas resource. Under rule of capture, they could drill a gas well on their property and pull gas from the neighboring properties without compensation.

# 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.

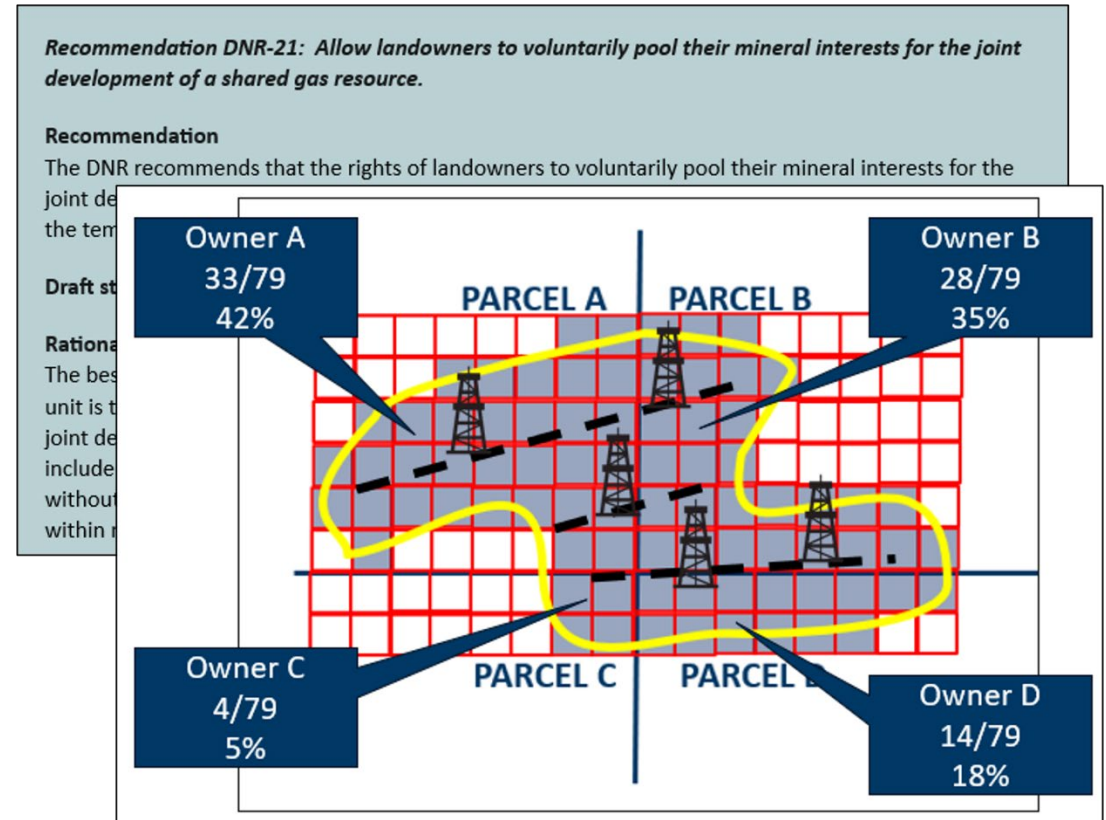
- Spacing units define the maximum area that can be efficiently and effectively developed by a well or set of wells.
- Established based on geology and engineering data.
- Size and shape of a spacing unit can change if new data becomes available.



# 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.

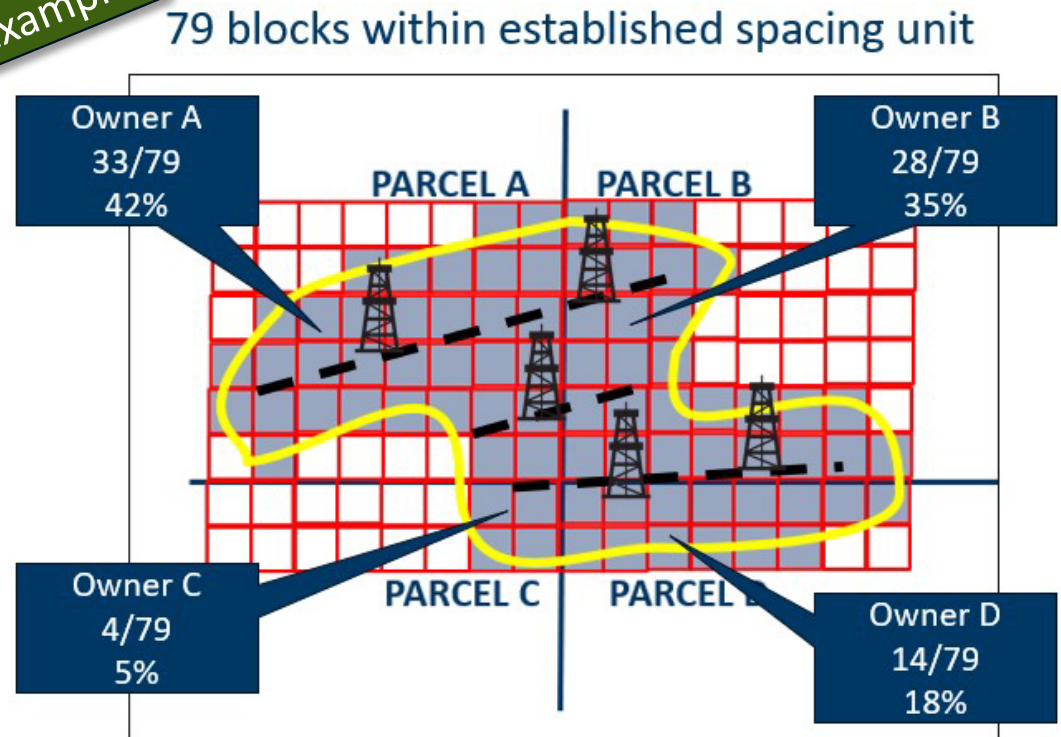


# Pooling Order Applications

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 below, 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.

Example





# 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 and equipment 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 or equipment 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 [MN gas production rules website](#) – Thank you!