



Mille Lacs Band of Ojibwe Indians

*Executive Branch of Tribal Government
Office of the Chief Executive*

Transmittal via e-mail to Rep.Peter.Fischer@house.mn.gov

Virgil Wind, Chief Executive
Mille Lacs Band of Ojibwe
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February 26, 2025

Peter M. Fischer, Representative 44A
Minnesota House of Representatives
5th Floor, Centennial Office Building
St. Paul, MN 55155

Re: Establishment of a new permitting process for the development of gas resources in the State of Minnesota

Dear Rep. Fischer,

The Mille Lacs Band of Ojibwe (the "Band") is a Federally recognized Tribe located primarily in east-central Minnesota with more than 5,000 enrolled Band members. We have a 61,000-acre Reservation established under the 1855 Treaty of Washington (10 Stat. 1165) and exercise governmental jurisdiction over lands in Aitkin, Crow Wing, Dakota, Kanabec, Hennepin, Mille Lacs, Morrison, and Pine County. We exercise our treaty-protected reserved rights in the 1837 Treaty of St. Peters (7 Stat. 536) and 1842 Treaty of La Pointe (7 Stat. 591) treaty-ceded territories spanning from east central Minnesota, across northern Wisconsin, and into western portion of the upper peninsula of Michigan, including the portions of Lake Superior in Minnesota, Wisconsin, and Michigan. We have nine statutorily defined communities, of which two are on our reservation, and the other seven are scattered across east-central Minnesota. The Band thanks you and the Environment and Natural Resources Finance and Policy Committee of the Minnesota House of Representatives for the opportunity to provide you with our perspectives, thoughts, concerns, and suggestions around the recent Gas Resource Technical Advisory Committee's (GTAC) draft recommendations and statutory language for a temporary regulatory framework for regulating gas development projects in Minnesota. Additionally, the Band thanks the Representative for your desire to receive Tribal input and thoughts regarding the establishment of a new permitting process for the development of gas resources in the State of Minnesota.

Gas Resource Technical Advisory Committee and their interaction with Tribes

Through the Minnesota Tribal Environmental Committee (MNTEC) meetings, the Minnesota Department of Natural Resources (MN DNR) presented to the Tribal Environmental

**Letter from Chief Executive Virgil Wind to the Minnesota State Representative Peter M. Fischer
Re: Establishment of a new permitting process for the development of gas resources in the State of
Minnesota**

February 26, 2025

Page 2 of 3

Professionals regarding the formation of the GTAC and a brief background regarding the fact that the State does not have a legal framework for regulating gas extraction and the pressures it faced from Pulsar Helium's desire to develop helium extraction facility in northeastern Minnesota. Our staff were informed of the State Legislature's desire to create a legal and regulatory framework to facilitate such operations, not just for helium, but also for other gas resources, and updates on what the GTAC's thoughts were to assist the Legislature in creating this framework on April 9, June 4, August 13, and December 3, 2024. However, beyond that, our staff have not received sufficient information regarding this path that the State has undertaken. Without adequate information, many of the Tribal staff, including the Band, did not see the need to elevate the matter to our leadership. Then, on November 13, 2024, with only one week of notice, MN DNR on behalf of GTAC invited the Tribal leadership for a brief meeting to inform the Tribal leadership of the preliminary draft of the GTAC recommendations, asking the Tribes to provide comments to the GTAC by November 25, 2024, before the public comment period opened, and after Tribes objected to the unreasonably short timeframe, kept the Tribal comment period open through the end of the public comment period on December 23, 2024.

The actions by the GTAC cannot be construed as Consultation per Minn. Stat. § 10.65. The State engaged in information sharing (Coordination), but these activities were not in a timely manner and they were not substantive and did not allow for a meaningful dialogue regarding impacts on law and policy between the Tribes and the State. Although Tribes were given additional time to respond to the State when compared to the stakeholders and the general public, no one—not the Tribes, the stakeholders, or the general public were given sufficient time to properly evaluate GTAC proposals.

In this light, the Band is pleased that the Environment and Natural Resources Finance and Policy Committee has reached out to us to foster dialogue and hopefully to have a fruitful discussion regarding the new permitting process for development of gas resources, and the changes in the permitting process the Minnesota Pollution Control Agency (MPCA) uses.

Establishment of a new permitting process for the development of gas resources

In our comment letters to the GTAC, the Band has repeatedly stated that the State can forgo any temporary rules, place a moratorium on all gas exploration and extraction, until comprehensive regular rules have been crafted, with sufficient Tribal consultation taking place between the State and the Tribes to inform the State appropriately and consider environmental concerns raised by Tribes. By having a two-step process, any temporary rules framework would need to be revisited with a regular rules framework; the Band believes this is premature and unnecessary action by the State and there may be insufficient environmental protection during the temporary rules framework. Once a gas extraction operation is in place, going back to retrofit the operations for more stringent operations will be a challenge.

Also, in our comment letters to the GTAC, the Band expressed that due to the fact that gas exploration can quickly turn into gas extraction operations, this is more similar with the pipelines and existing petroleum products operations in the State, and not with hard-rock mining as

**Letter from Chief Executive Virgil Wind to the Minnesota State Representative Peter M. Fischer
Re: Establishment of a new permitting process for the development of gas resources in the State of
Minnesota**

February 26, 2025

Page 3 of 3

advocated by the MN DNR. Consequently, the Band strongly recommended that the MN DNR not be designated as the Responsible Government Unit (RGU) for environmental review, regulations, and permitting for gas exploration and gas extraction operations, but rather MPCA should be designated as the RGU.

House File 8: changes in the permitting process the MPCA uses

In Section 2, the proposed language for Section 116.03(2b)(d), "... remedied as soon as possible." should be more prescriptive with a defined timeline such as "... remedied within 30 business days."

The proposed Section 8 should be stricken out, as a scoping environmental assessment worksheet is still needed, not to determine if an environmental impact statement is needed or not, but to determine the extent of the mandatory environmental impact statement.

Closing

The Band again thanks you and the Environment and Natural Resources Finance and Policy Committee of the Minnesota House of Representatives for this opportunity to provide our perspectives, thoughts, concerns, and suggestions. If there are further discussions you and the Committee would like to partake with the Band, please e-mail Commissioner Kelly Applegate at **Kelly.Applegate@MilleLacsBand.com**. Commissioner Applegate and his staff can facilitate discussions between the Band and the Committee.

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Virgil Wind

Chief Executive

Mille Lacs Band of Ojibwe

cc:

Kelly Applegate, Commissioner of Natural Resources, Mille Lacs Band of Ojibwe
Susan Klapel, Executive Director, Mille Lacs Band of Ojibwe DNR
Perry Bunting, Director of Environmental Programs, Mille Lacs Band of Ojibwe DNR