THE ALASKA CENTER • ALASKA COMMUNITY ACTION ON TOXICS • ALASKA PUBLIC INTEREST RESEARCH GROUP • CENTER FOR BIOLOGICAL DIVERSITY • COOK INLETKEEPER • FAIRBANKS CLIMATE ACTION COALITION

May 13, 2026

Submitted via ZendTo and email to aogcc.ccus@alaska.gov
cc: samantha.coldiron@alaska.gov

Thomas W. McKay, Commissioner
Gregory C. Wilson, Commissioner
Alaska Oil and Gas Conservation Commission
cc: Samantha Coldiron, Special Assistant
333 West 7th Avenue
Anchorage, AK 99501

Re: Notice of Intent to Apply for Class VI Primacy - Notice of Public Hearing
State of Alaska, Alaska Oil and Gas Conservation Commission

Dear Alaska Oil and Gas Conservation Commission:

The Alaska Center, Alaska Community Action on Toxics, Alaska Public Interest Research Group, Center for Biological Diversity, Cook Inletkeeper, and Fairbanks Climate Action Coalition provide the following comments on the Alaska Oil and Gas Conservation Commission's ("AOGCC" or "Commission") "Notice of Intent to Apply for Class VI Primacy, Notice of Public Hearing."[1] We reiterate and incorporate by reference both the scoping comments we previously submitted to Docket Number: R-24-002 concerning the Commission's intent to pursue Class VI primacy for carbon dioxide ("CO2") injection wells[2] and the comments submitted on January 13, 2026, concerning the Commission's proposed changes to Title 20 Chapter 25 of the Alaska Administrative Code.[3]

We do not believe that the AOGCC's final regulations and Response to Comments adequately resolve the issues we raised in previous comments. We highlight some of those unresolved issues below. We therefore urge the Commission not to move forward with the submission of its Class VI primacy application.

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[1] Alaska Oil and Gas Conservation Commission, *Notice of Intent to Apply for Class VI Primacy, Notice of Public Hearing* (April 9, 2026), accessible online at: https://www.commerce.alaska.gov/web/Portals/18/pub/Events/Public%20Hearings/2026/2026-05-14/Public%20Hearing%20Notice%20Class%20VI%20Primacy%20Application.pdf.

[2] Comment by Alaska Center et al., *Re: Notice of Public Scoping* (November 6, 2024), accessible online at: https://www.commerce.alaska.gov/web/Portals/18/pub/CCUS/Public%20Scoping%20Comments/2024-11-07/Center%20for%20Biological%20Diversity%20AK%20Class%20VI%20Primacy%20Scoping%20Comment_AK%20CCUS%20received110724.pdf.

[3] Comment by Alaska Center et al., *Re: Proposed changes to regulations in Title 20 Chapter 25 of the Alaska Administrative Code dealing with carbon storage as it relates to Class VI wells, and establishing a new Class VI Underground Injection Control program for Alaska* (Jan. 13, 2026), assessable online at: https://www.commerce.alaska.gov/web/Portals/18/pub/CCUS/Public%20Scoping%20Comments/2026-01-13/Center%20for%20Biological%20Diversity%20Comments%20on%20CCUS%20Draft%20Regs.pdf.

I. Funding remains inadequate and uncertain to cover the technical expertise and implementation necessary for a Class VI permitting program.

Class VI permits are complex and highly technical, covering activities spanning decades, including pre-injection, injection, and post-injection. Typically, EPA takes nearly two years to review and issue a draft Class VI permit.[4] Class VI primacy would require the Commission to hire new staff with high levels of technical expertise, expend significant funds, and commit to ongoing monitoring and enforcement. The State of Alaska does not have the financial or staffing resources to successfully carry out a Class VI injection well permitting program. The Commission's regulations and Response to Comments have not adequately addressed this concern.

In EPA's own words to Congress, "[geologic storage] is a complex process that is highly dependent on site-specific conditions; therefore, *a robust and comprehensive permit application and permit review process is fundamental* to preventing endangerment of [underground sources of drinking water] from these activities."[5] EPA Region 9, for example, hires outside consultants and works with the U.S. Department of Energy's National Energy Technology Lab to assist with its Class VI permit application review process. The technical expertise to permit Class VI wells is distinct from oil and gas permitting.

The need to bring in additional and new technical expertise in order to responsibly assume the review of Class VI permits, as well as the significant cost to do so, is a huge barrier for Alaska. The state is reckoning with a financial crisis[6] and executive agencies have been under a statewide hiring freeze since May 2025.[7] Another example of the state's inability to effectively implement and carry out a relatively simple program is the recent fine of $11.9 million imposed by the U.S. Department of Agriculture's Food and Nutrition Service for the state's failure to properly verify eligibility of benefit recipients.[8] While each of these examples relates to programs that are very different than reviewing Class VI permit applications, they demonstrate a pattern of the state's inability to adequately administer relatively simple, albeit high volume, functions. It is irresponsible for the state to pursue authority to administer Class VI permitting decisions and take on that responsibility without ensuring proper program oversight, technical expertise and implementation; doing so would jeopardize the health and safety of Alaska's residents.

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[4] White House Environmental Justice Advisory Council, *Carbon Management Recommendations, Report 2*, at 40 (2024) https://www.epa.gov/system/files/documents/2024-10/whejac-carbon-management-recommendations-october-2024.pdf

[5] Environmental Protection Agency, *EPA Report to Congress: Class VI Permitting* 19 (2022) (emphasis added), https://www.epa.gov/system/files/documents/2022-11/EPA%20Class%20VI%20Permitting%20Report%20to%20Congress.pdf.

[6] Alaska Legislative Finance Division, The Fiscal Year 2025 Budget: Legislative Fiscal Analyst's Overview of the Governor's Request 7 (2023), https://www.legfin.akleg.gov/Overview/Overview2025.pdf.

[7] Administrative Order No. 358, https://gov.alaska.gov/admin-orders/administrative-order-no-358/.

[8] Eric Stone, *USDA Fines Alaska $11.9M for Failing to Ensure SNAP Recipients are Eligible*, Alaska Public Media (Jun. 28, 2024), https://alaskapublic.org/2024/06/28/usda-fines-alaska-11-9-million-for-failing-to-ensure-snap-recipients-are-eligible/. The state has also repeatedly struggled with backlogs in the Supplemental Nutrition Assistance Program and Heating Assistance Program applications, which have recently had backlogs of 12,000 and 2,000 applications, respectively. Claire Stremple, *State Lags in Heating Assistance Payments to Alaskans with Low Incomes, Catches up on Food Stamps*, Alaska Beacon (Mar. 5, 2024), https://alaskabeacon.com/briefs/state-lags-in-heating-assistance-payments-to-alaskans-with-low-incomes-catches-up-on-food-stamps/.

The Commission's Response to Comments from March 2026 on Class VI funding is unavailing. There, the Commission claims:

> AOGCC was initially funded with a two-year appropriation from the legislature. AOGCC has received a $1.93 million grant award from EPA for the pursuit of Class VI primacy. **This award is for 5 years duration**. AOGCC **also anticipates** an annual EPA award similar to the Class II annual award, for ongoing program participation and reporting etc. By the design of the Alaska legislature, Alaska Statutes codified at 41.06.105-210 require the carbon storage facility program to be **user pays (industry) through a set of funding mechanisms** including application fees and injection surcharges. The AOGCC is confident that the funding is sufficient for AOGCC to implement the program with existing staff, additional staff, and expert consultants on an as needed basis.[9]

The bolded sections above raise serious concerns because they are speculative and do not provide adequate assurances that the state will have funding to effectively review complex Class VI applications and enforce permit violations. First, while AOGCC may have received a five-year EPA primacy grant, that funding ends three years from now in 2029.[10] That AOGCC "anticipates an annual award" to arrive at some other, unnamed date appears to be wishful thinking, as the agency provides no factual basis for this belief. Then, AOGCC asserts that it expects application and injection fees to cover needed expenses. But per the final regulations, an application fee is flexible—meaning, it is determined in the course of the conversation between the applicant and the agency.[11] The same goes with injection fees.[12] In other words, AOGCC does not—and cannot—know what its possible revenue from Class VI projects may be based on fees because those are determined on a project-by-project basis. For such an expensive program, simply hoping that these fees will cover expenses of thorough application review and later enforcement simply is not enough. Moreover, the agency is setting up a perverse incentive to approve most any project application; i.e., it is hard to see how AOGCC would deny a Class VI permit application, even for an especially risky or dangerous project, because apparently future funding depends on projects injecting CO_2.

These funding uncertainties and perverse incentives make pursuing and approving Class VI primacy inappropriate.

II. Alaska's fee-shifting statute and rules discourage citizen oversight lawsuits and undermine key elements of the SDWA.

Alaska's fee-shifting rules effectively neutralize the SDWA's citizen suit provisions and are in stark contrast to the meaningful citizen engagement found in the federal regime. This is a weak point in the present Class VI primacy application that the Commission should remedy in the

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[9] AOGCC Response to Comments on Proposed CCUS Regulations (March 3, 2026) at 19 (emphasis added).
[10] AOGCC, Class VI Program, Notice of Award Summary, https://www.commerce.alaska.gov/web/aogcc/ccus/Home.aspx; *see* Petroleum News, CCUS regs update for Senate Resources (Feb. 2025), https://www.petroleumnews.com/story/2025/02/09/news/ccus-regs-update-for-senate-resources/40606.html.
[11] 20 AAC 25.1100(c)(1).
[12] 20 AAC 25.1280.

interest of justice for Alaskans. This shortcoming may also ultimately prove to be an obstacle to the Commission's primacy bid.

The SDWA explicitly allows private citizens to take legal action against EPA in the public interest to protect resources such as drinking water if the agency has violated statutory provisions.[13] This litigation has been instrumental to ensuring agency fidelity to the purposes of the SDWA and other environmental statutes.[14] This tool for agency accountability is financially feasible because, though courts may award prevailing or substantially prevailing parties fees as the court deems appropriate,[15] federal courts only award attorney's fees to defendants in rare circumstances.[16]

While Alaskan courts also have the discretion to adjust fees, Alaska law prescribes what is effectively the inverse of federal practice. Under Alaska law, unsuccessful plaintiffs are required to pay *both* their own fees and part of the prevailing party's fees by default.[17] This unpredictable system fails to provide assurance to public interest plaintiffs that they will be insulated from having to pay defendants' fees. No other state in the nation so broadly saddles public interest litigants in civil cases with such high financial risk for seeking to hold their government accountable to the law. In fact, many other states protect similarly situated litigants, as does the federal government.

The result of Alaska's fee-shifting rule is a chilling of public interest litigation. This is incompatible with the citizen enforcement provisions of the SDWA. The fee-shifting rule disempowers Alaskans by taking away an important tool for government accountability that is baked into the SDWA. Such accountability is vital in a complex regulatory regime with potentially grave consequences for Alaskan communities and the state's sensitive environment.

In its response to an identical concern raised in a prior comment, the Commission stated:

> The AOGCC appreciates your comment. This comment relates to matters outside AOGCC authority or the proposed regulations. The AOGCC believes that the concerns expressed are unlikely as the AOGCC has proposed regulations that implement state law and are at least as stringent as the corresponding federal requirements.[18]

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[13] 42 U.S.C. § 300j-8.
[14] Florio, K.D., *Attorney's Fees in Environmental Citizen's Suits: Should Prevailing Defendants Recover?*, 27 BOSTON COLLEGE ENV. AFFAIRS L. REV. 707, 709 (2000).
[15] 42 U.S.C. § 300j-8(d).
[16] C. Kinley, *The Water is on Fire: Current Circuit Approaches to Fee-Shifting in Citizen-Suits Under the Clean Water Act and the Need for Clearer and More Uniform Standards*, 46 WM. & MARY ENV'T L. & POL'Y REV. 521 (2022).
[17] Alaska R. Civ. P. 82 (requiring partial fee shifting against the losing party in civil cases); Alaska R. App. P. 508(e)(4) (requiring partial fee shifting against the losing party in appeals from agency action). The only exception is where a plaintiff brings a claim in the public interest under the Alaska Constitution or U.S. Constitution. AS 09.60.010(c).
[18] Alaska Oil and Gas Conservation Commission, *AOGCC Response to Comment on Proposed CCUS Regulations*, 21 (Mar. 3, 2026), accessible online at: https://www.commerce.alaska.gov/web/Portals/18/pub/Events/Public%20Meetings/2026/2026-03-03/CCUS%20Regulations%20Comments%20Responsiveness%20Summary.pdf.

The Commission's response only highlights the need to delay consideration of Class VI primacy until the current legal framework allows for adequate administration of the Class VI program. The fact that the Commission sees the fee-shifting statute as outside the scope of its authority does nothing to make it less injurious to the Class VI program the agency seeks to administer. Said another way, the Commission may not hold all the pieces to the primacy puzzle, but that does not alter the fact that the puzzle must be complete for a successful application. To obtain primacy, the State of Alaska must demonstrate that it has a sufficient legal framework in place to ensure all aspects of the Class VI program, including the SDWA's provision for citizen suits. If a necessary aspect of that framework is not in place, the Commission is responsible for working with fellow governmental bodies and branches to fill the gap.

Our state's fee-shifting rule is just such a gap and must be properly addressed before the state's legal framework is adequate to support primary enforcement authority over Class VI UIC wells.

III. CCS is dangerous, energy-intensive, and ineffective.

The science is clear that renewable energy and energy storage projects are needed to avert a climate catastrophe.[19] CCS diverts resources from that goal. Moreover, after billions of dollars of investment and subsidies, and decades of development, CCS projects around the world have failed to meet their greenhouse gas emission reduction promises.[20]

Already throughout Alaska, public health and safety, fish and wildlife, and critical infrastructure are being damaged by flooding, erosion, and permafrost degradation.[21] There is no doubt that our state is facing significant climate-related challenges, and investing in energy-intensive, risky, expensive, and ineffective technologies like CCS will only cause further harm to Alaskans and the environment.

While the Commission's approved Class VI regulations are meant to be at least as stringent as federal Class VI regulations, the inescapable fact is Class VI regulations arise under the SDWA—an important law, but one focused on protection of underground sources of drinking water. In other words, by its nature, Class VI regulations focus only on portions of a CCS project's impacts—not the entire array of health, safety, and environmental risks. Because these risks are great (and potentially deadly), it is simply not worth proceeding with primacy (and CCS at all in Alaska).

CCS projects endanger public health and safety, and perpetuate environmental injustice. Transporting and storing CO_2 will likely require a massive network of perilous pipelines connected to underground injection sites. Both pipelines and injection sites can leak or rupture. This is especially concerning because CO_2 is an asphyxiant that's heavier than air, and it can

[19] The Department of Energy's research shows that there are enough renewable energy and storage projects proposed across the country to hit 80% of President Biden's 100% non-fossil energy goal years ahead of schedule. Dep't of Energy, Queued Up… But in Need of Transmission 1 (2022), https://www.energy.gov/sites/default/files/2022-04/Queued%20Up%E2%80%A6But%20in%20Need%20of%20Transmission.pdf.

[20] Bruce Robertson & Milad Mousavian, The Carbon Capture Crux: Lessons Learned at 71-76 (2022), https://ieefa.org/sites/default/files/2022-09/The%20Carbon%20Capture%20Crux.pdf.

[21] Henry P. Huntington et al., Fifth National Climate Assessment: Chapter 29 Alaska 29-5 (2023); Mika Rantanen et al., The Arctic has Warmed Nearly Four Times Faster than the Globe Since 1979, 3 Communications Earth & Env't 168, 2 (2022).

travel large distances at lethal concentrations after a rupture.[22] An environmental assessment for one recently proposed CCS project acknowledged that "fatalities" of workers at a nearby farm could result from a CO_2 leak at the project site.[23]

Existing CCS infrastructure has already harmed people and the environment, including the February 2020 CO_2 pipeline rupture in Satartia, Mississippi.[24] In that incident, individuals miles away from the leak began foaming at the mouth and suffocating, not knowing that they were in a potentially deadly CO_2 cloud.[25] Combustion-engine cars stopped working because of the oxygen displacement, hindering evacuation and emergency response.[26]

The federal pipeline regulator, PHMSA, launched a rulemaking after the Satartia incident to improve CO_2 pipeline regulations.[27] In its rulemaking, PHMSA said that it "expects development of a much more extensive [CO_2] pipeline network that will result . . . in an increased frequency of [CO_2] pipeline accidents per mile" and that the "public safety and environmental consequences from those accidents [will] more closely resemble those experienced . . . in the accident at Satartia, Mississippi."[28]

Regarding Class VI primacy specifically, the White House Environmental Justice Advisory Council (WHEJAC),[29] more than 500 organizations nationwide,[30] and the 1,500-group Climate Action Network[31] have raised alarms about CCS for its impacts named above and for perpetuating harms in frontline and environmental justice communities, including Tribes. As recently as October 2024, the WHEJAC asked EPA to "suspend delegation of primary enforcement authority for UIC Class VI programs until it has made a determination that each state has achieved full compliance with applicable rules and authorities, including public participation requirements."[32]

Remote Alaska Native communities have been particularly affected by environmental injustices, including the conveyance of contaminated Alaska Native Claims Settlement Act lands, declining

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[22] Pipeline Safety Trust, Carbon Dioxide Pipelines, https://pstrust.org/carbon-dioxide-pipelines/.
[23] Kern County California, Environmental Impact Statement review for CarbonFrontier Project (2023) at 4.9-54, https://ceqanet.lci.ca.gov/2023060293.
[24] Dan Zegart, The Gassing of Satartia, HUFFINGTON POST (Aug. 26, 2021), https://www.huffpost.com/entry/gassing-satartia-mississippi-co2-pipeline_n_60ddea9fe4b0ddef8b0ddc8f.
[25] *Id.*
[26] *Id.*
[27] *See* PHMSA, https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2025-01/PHMSA%20Notice%20of%20Proposed%20Rulemaking%20for%20CO2%20Pipelines%20-%202137-AF60.pdf.
[28] *Id.* at 30.
[29] White House Environmental Justice Advisory Council, Final Recommendations: Justice40 Climate and Economic Justice Screening Tool & Executive Order 12898 Revisions 59 (2021) https://www.epa.gov/sites/default/files/2021-05/documents/whiteh2.pdf (listing CCS and CCUS as examples of projects that will not benefit communities).
[30] Letter from 350.org et al. to President Joseph R. Biden, Jr., House Speaker Nancy Pelosi, & Senator Charles Schumer (July 19, 2021), https://www.ciel.org/wp-content/uploads/2021/07/CCS-Letter_FINAL_US-1.pdf.
[31] Climate Action Network, *Position: Carbon Capture, Storage and Utilisation* (2021) https://climatenetwork.org/wp-content/uploads/2021/01/can_position_carbon_capture_storage_and_utilisation_january_2021.pdf.
[32] White House Environmental Justice Advisory Council, *Carbon Management Recommendations, Report 2* 16 (2024) https://www.epa.gov/system/files/documents/2024-10/whejac-carbon-management-recommendations-october-2024.pdf [hereinafter *WHEJAC Report 2*].

fish stocks, as well as climate-induced storms, erosion, flooding, and thawing permafrost. Inviting CCS projects into the state would threaten the health and safety of all residents, but remote Alaska Native villages that are at the forefront of climate change and rely on a healthy environment for their food security are most vulnerable.

Many of the concerns regarding CCS and CO_2 storage are inherent to such projects regardless of jurisdiction, but they are significantly elevated by the possibility of state regulators obtaining Class VI primacy.

Relatedly, Alaska has not demonstrated it has the expertise to effectuate environmental justice principles and practices in Class VI permitting. In 2023, EPA released guidance on how to work towards environmental justice in the context of Class VI permitting and primacy.[33] That document required that permit issuers identify, analyze, and address environmental justice concerns in the context of implementing and overseeing Class VI permitting and show how it will do so in its Class VI primacy application.[34]

There are many reasons that environmental justice compliance will be challenging in Alaska, including the presence of 229 federally-recognized Alaska Native Tribes and the multitude of remote off-the-road-system communities, including many where an Indigenous language like Yup'ik or Iñupiaq, rather than English, is primarily spoken. Showing that it can meet EPA's environmental justice guidance will be even more substantial of a hurdle for Alaska than many other states and one that the state cannot legitimately hope to overcome without a radical shift in its practices and priorities.

CO_2 leaks endanger plants, animals, and ecosystems. Just as CO_2 can harm and cause fatalities with people, the same is true with animals. For example, in 1986, a sudden, catastrophic release of CO_2 from Lake Nyos in Cameroon killed 1,700 people and 3,000 cattle. [35] The CO_2 spread 10 km from the lake and bird, insect, and small mammal populations were not seen in the area for at least 48 hours after the event.[36] Additionally, experiments with controlled injections of CO_2 into soil showed adverse effects on plants in response to CO_2 exposure.[37] Biomass changes were seen in all plants studied; for example, clover plants decreased by 79% while grass decreased by 42%.[38] The researchers' overarching conclusion was that elevated concentrations of soil CO_2 damages both soil microbiology and growing vegetation.[39]

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[33] Memorandum from E.P.A. Administrator Radhika Fox, *Re: Environmental Justice Guidance for UIC Class VI Permitting and Primacy* (Aug. 17, 2023), https://www.epa.gov/system/files/documents/2023-08/Memo%20and%20EJ%20Guidance%20for%20UIC%20Class%20VI_August%202023.pdf [hereinafter *EPA EJ Guidance*].

[34] *Id.* ("Additionally, UIC well owners/operators should consider this guidance when developing permit applications. EPA Regions are encouraged to work collaboratively and proactively with state, tribal, and local partners to facilitate their consideration and application of this guidance in their UIC permitting actions.").

[35] George W. Kling et al., The 1986 Lake Nyos Gas Disaster in Cameroon, West Africa, 236 SCIENCE 169 (1987).

[36] *Id.*

[37] Karon L. Smith et al., Environmental Impacts of CO_2 Leakage: Recent Results from the ASGARD Facility, UK, 37 ENERGY PROCEDIA 791 (2013).

[38] *Id*.

[39] *Id*.

Other research on CO_2 and plants showed reduced plant growth and extensive mortality at the point where CO_2 concentrations were greatest in the soil.[40] For the plants that survived, root and shoot growth was significantly lower than in controls.[41] Reproductive variables such as number of seeds per plant and seed dry weight per plant were also reduced compared to controls.[42]

Alaska is home to a variety of plants, fish, and wildlife, each of which contribute to rich, biodiverse ecosystems. Many of the species that call our state home are already struggling with the effects of climate change, human disturbances, overfishing, oil spills, and habitat fragmentation. Protecting the species that call Alaska home is inherently important and critical to the wellbeing of our state. The wellbeing of Alaska's fish, wildlife, lands, and waters is also critically important for the social, cultural, spiritual, and economic and wellbeing and survival of its people, especially Alaska Native people, who have relied on subsistence practices to sustain customary and traditional ways of life since time immemorial.[43] As the Department of Fish and Game notes on its website, "[w]ildlife is one reason why people live in Alaska, and a big reason why visitors come to Alaska."[44] The state must not risk damage to the precious and fragile ecosystems of the state, which so many Alaskans rely on, by encouraging and enabling dangerous CCS projects.

CCS is highly energy-intensive. In addition to being ineffective as a pollution control technology, CCS operations are energy-intensive—meaning CCS could strain Alaska's utilities and drive-up energy prices for residents. CCS projects often result in an "energy penalty" from the extra energy required to run a capture process or the amount of energy spent when compared to the energy generated.[45] One study showed the energy penalty of CCS increases the fuel requirement for electricity generation by 11-40%.[46] In a real-world example, one CCS project proposed building its own 23MW gas-fired powerplant just to compress the CO_2 for injection.[47] Another project estimated its energy demands to be 49 MW/year (amounting to 3% of the total demand of the county where it would be located), which the project would draw off the grid.[48]

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[40] Manal Al-Traboulsi et al., Potential Impact of CO_2 Leakage From Carbon Capture and Storage (CCS) Systems on Growth and Yield in Spring Field Bean, 80 ENV'T & EXPERIMENTAL BOTANY 43 (2012).
[41] *Id*.
[42] *Id*.
[43] Alaska Federation of Natives, Resolution 23-01: A Resolution in Support of Alaska Native Aboriginal Hunting and Fishing Rights and Congressional Action to take Immediate Action to Permanently Protect the Right of Alaska Native People to Engage in Subsistence Fishing in Alaska's Navigable Waters (Oct. 1, 2023).
[44] Alaska Department of Fish and Game, Division of Wildlife Conservation – Division Overview, https://www.adfg.alaska.gov/index.cfm?adfg=divisions.wcoverview.
[45] Mark Z. Jacobson, The Health and Climate Impacts of Carbon Capture and Direct Air Capture, 12 ENERGY & ENV'T SCI. 3567 (2019).
[46] Kurt Zenz House et al., The Energy Penalty of Post-Combustion CO_2 Capture & Storage and its Implications for Retrofitting the U.S. Installed Base, ENERGY & ENV'T SCI. (2009).
[47] Email from Frederick Tornatore, San Joaquin Renewables, to Leonard Scandura, San Joaquin Valley Air Pollution Control District (Mar. 2, 2021 09:10:22 PT) (on file with the Center for Biological Diversity).
[48] Kern County California, Environmental Impact Statement review for CarbonFrontier Project (2023) at 4.1-15, https://ceqanet.lci.ca.gov/2023060293.

According to a 2021 report, widespread adoption of CCS would raise the retail price of electricity in Alaska by 10.5% or $148.75 per year.[49] Alaska's residents already "face energy disruptions, natural disasters, and the harmful effects of climate change while paying some of the nation's highest energy costs."[50] Increased fossil fuel extraction, additional strain on our state's utilities, and increased consumer prices is the last thing the people of Alaska want or need. Even the best Class VI regulations do not address this strain on Alaska's resources.

IV. Alaska's poor history of oil and gas safety and environmental oversight and enforcement make adding a new permitting program highly risky.

Safe delegation of Class VI primacy to the state would require the Commission to uphold the SDWA and maintain effective oversight to protect underground sources of drinking water. In the context of oil and gas, the Commission has shown that it is unable to deter environmental and safety violations: Hilcorp, for example, had more than two dozen violations over a 3.5-year period—so many that the Commission concluded that "disregard for regulatory compliance is endemic to Hilcorp's approach to its Alaska operations."[51] While the Commission has taken anemic enforcement actions against Hilcorp for many of its violations, the agency was unwilling to hold Hilcorp accountable for the 2016 gas pipeline burst in Cook Inlet, even when the Alaska Supreme Court agreed with the former commissioner that the leak was under the Commission's jurisdiction.[52] In another example, Cook Inlet Energy flared gas for almost four months and mislead regulators about the reasons for flaring.[53] The Commission fined the company, but reduced the amount after the company challenged the fine.

In the case of a gas leak at a ConocoPhillips' oil field on the North Slope, the Commission waited over a year before even holding a hearing on the issue.[54] The leak had gone undetected for three weeks, with up to 7.2 million cubic feet of natural gas streaming into the air during that period.[55] Residents of the local village, Nuiqsut, watched with concern as "busloads of people" left from the oil field, but received no information from the Commission or any entity about the leak or the risks to their health.[56]

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[49] Sean O'Leary & Ben Hunkler, Ohio River Valley Institute, Carbon Capture, Use, and Sequestration Would Decarbonize the Electric System…in the Worst Possible Way 1, 7 (2021), https://ohiorivervalleyinstitute.org/wp-content/uploads/2021/10/CCUS-Report-FINAL-3.pdf.

[50] Dep't of Energy, Office of Energy Efficiency & Renewable Energy, 100% Clean Electricity: North to the Clean Energy Future (Aug. 9, 2023), https://www.energy.gov/eere/articles/100-clean-electricity-north-clean-energy-future.

[51] Alaska Oil and Gas Conservation Commission, *Decision and Order Re: Failure to Test BOPE After Use, Milne Point Unit I-03, PTD 1900920, Other Order 109, Docket No. OTH-15-029* 3 (May 3, 2016).

[52] Sabine Poux, *Alaska State Agency Again Rejects Hollis French's Petition to Investigate Cook Inlet Leak*, ALASKA PUBLIC MEDIA (Jan. 21, 2022), https://alaskapublic.org/2022/01/21/alaska-state-agency-again-rejects-petition-to-investigate-cook-inlet-leak/.

[53] James Brooks, *State investigation confirms oil company wasted four months of natural gas on North Slope*, ALASKA BEACON (Jan. 28, 2026) https://alaskabeacon.com/briefs/state-investigation-confirms-oil-company-wasted-four-months-of-natural-gas-on-north-slope/.

[54] Yereth Rosen, *Gas Leak at ConocoPhillips Field Reviewed a Year Later, with Enforcement Action Possible*, ALASKA BEACON (Mar. 24, 2024), https://alaskabeacon.com/2023/03/24/gas-leak-at-conocophillips-field-reviewed-a-year-later-with-enforcement-action-possible/.

[55] *Id*.

[56] *Id*.

Before it attempts to assume Class VI primacy, the Commission must establish a reliable track record of integrity and strong environmental enforcement and a commitment to protect Alaska's people and environment.

V. The Commission has the responsibility not to pursue Class VI primacy until it can adequately administer the Class VI UIC program.

As described in detail above, it is not in the best interest of Alaska nor Alaskans for the Commission to catalyze CCS project development in our state. However, this is exactly what the Commission seeks to do with its current pursuit of Class VI primacy, and it does so despite the significant persisting fiscal, technical, legal, and administrative shortcomings.

The Commission has the discretion and responsibility to ensure that the gaps identified in this comment are filled prior to pursuing Class VI primacy. The law states that the Commission "may take all actions necessary to allow the state to acquire primary enforcement responsibility" for Class VI wells from the EPA.[57] Accordingly, the Commission is authorized—but not required—to pursue Class VI primacy and the Commission would be operating comfortably within its discretion by choosing to forego or delay Class VI primacy to first ensure it is prepared for such an undertaking.

Even though the Commission has already developed and promulgated some implementing regulations, it need not immediately pursue Class VI primacy. The Commission can and should build capacity, expertise, and resources while leaving the primary enforcement responsibility for the Class VI program and the accompanying liability to the federal EPA.

We hope the Commission seriously considers this option, due to the complex nature of the Class VI UIC program and the immense liability the state will assume by administering it. The choice to rush into Class VI primacy poses great risk to Alaska's residents and environment, considering the consequences if the state is awarded primacy but ultimately fails to responsibly administer the permitting program.

Conclusion

Thank you for your careful consideration of our comments and concerns. Given the many unresolved problems associated with CCS and state-level Class VI primacy, we urge the Commission not to move forward with its application for primacy at this time.

Sincerely,

Chantal de Alcuaz
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[57] AS 31.05.030(h).

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