



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Alaska Oil and Gas Conservation Commission

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May 21, 2026

Sent via Email

Ms. Marlee Goska
Alaska Staff Attorney
Center for Biological Diversity
P.O. Box 1178
Homer, AK, 99603

Re: AOGCC Response to Written Comments
Notice of Intent to Apply for Class VI Primacy

Dear Ms. Goska and Colleagues:

Thank you for submitting your written comments to the Alaska Oil and Gas Conservation Commission (AOGCC) in response to the Notice of Intent to Apply for Class VI Primacy (Notice). The hearing was held on May 14, 2026. As was stated in the Notice, AOGCC is intending to apply for Class VI primary enforcement authority (Primacy) from the United States Environmental Protection Agency (EPA) as a new well Class within the Underground Injection Control (UIC) program.

AOGCC's responses to your comments are below:

1. Funding remains inadequate and uncertain for a Class VI program

AOGCC acknowledges the commenter's concerns regarding long-term program funding and staffing. AOGCC notes that Class VI programs nationwide evolve over time and staffing needs are periodically reassessed. Alaska statutes specifically contemplate an industry-funded program structure through application fees, injection surcharges, trust funds, and financial assurance mechanisms. AOGCC also notes that EPA oversight remains part of the primacy framework and that additional federal funding opportunities may continue to become available as the national Class VI program matures. Historically the AOGCC operates on an industry funded model which has shown to be successful and sustainable.

2. State lacks technical expertise for Class VI review

AOGCC agrees with the comment that “Class VI permits are complex and highly technical.” AOGCC believes the Class VI permitting in Alaska, by AOGCC, will be as stringent as any EPA permit review or issuance. AOGCC further notes that use of outside technical consultants and interdisciplinary review teams is consistent with practices used by EPA regions and other state primacy programs. The ability to supplement staff expertise with contractors is viewed as a strength of the proposed program rather than a deficiency.

3. Concern that fee structure creates incentive to approve projects

AOGCC disagrees that the proposed fee structure creates an inappropriate incentive to approve Class VI permits. Permit applications must comply with all applicable statutory and regulatory requirements regardless of fee recovery mechanisms. AOGCC retains authority to deny permit applications that fail to demonstrate protection of underground sources of drinking water, reservoir integrity, monitoring capability, or financial assurance compliance. The proposed fee structure has a successful track record in other states with Class VI primacy.

4. Alaska fee-shifting rules undermine Safe Drinking Water Act (SDWA) citizen suits

The AOGCC disagrees that Alaska’s rules surrounding attorney fees are incompatible with the SDWA. The SDWA mandated the EPA to promulgate regulations for state underground injection control programs with minimum requirements to prevent endangering drinking water. 42 U.S.C. § 300h(a)-(b). The EPA did so for Class VI wells by promulgating federal requirements at 40 CFR Parts 144, 145 and 146. A state’s Class VI program must be at least as stringent as the requirements in these federal regulations. 42 U.S.C. § 300h-1(b); 40 C.F.R 145.11(b)(1). While the federal regulations do have numerous requirements for public participation, including public participation in the enforcement process, there is not a requirement that a state have a particular rule regarding attorney fees. Moreover, even if it was a minimum requirement that a state was required to satisfy, Alaska’s attorney fee rule—which could require a losing litigant to pay some of the prevailing party’s attorney’s fees—is not incompatible with the rule under the SDWA which allows a federal court to do the exact same thing. 42 U.S.C. § 300j-8(d)(“court...may award costs of litigation (including reasonable attorney and expert witness fees) to any party...”)(emphasis added). In fact, Alaska’s rule may be even more generous to a public interest litigant, because Alaska has an explicit statutory provision allowing the prevailing public interest party asserting constitutional rights to recover full, instead of partial, attorney fees, while also allowing those same claimants to avoid the risk of an attorney fee award against them if unsuccessful. AS 09.06.010(c)

5. Carbon Capture, Utilization, and Storage (CCUS) is dangerous, ineffective, and diverts resources from renewable energy

AOGCC reiterates that the agency’s statutory role is not to determine broader climate or energy policy outcomes, but rather to regulate carbon storage facilities in a manner protective of underground sources of drinking water, public health, and safety. AOGCC continues to believe a compliant, regulated CCUS project in Alaska can be executed safely.

6. CCUS projects perpetuate environmental justice harms

AOGCC's Class VI permitting will include a robust public notice and comment period, and surface and subsurface owner notifications and opportunity to comment. AOGCC recognizes the importance of meaningful engagement with Alaska communities, including Tribes and rural communities. Public participation requirements under the Class VI program will continue to be implemented consistent with EPA primacy requirements and applicable state and federal law.

7. Pipeline and Hazardous Materials Safety Administration (PHMSA) pipeline concerns and Satartia incident

AOGCC acknowledges concerns related to carbon dioxide transportation infrastructure; however, regulation of interstate and intrastate carbon dioxide pipelines primarily falls outside AOGCC's statutory authority and Class VI primacy responsibilities. By statutory definition, a "storage facility," which AOGCC would regulate if granted primacy, does not include pipelines, compressors, surface facilities and equipment used to transport carbon dioxide to the storage facility that are unrelated to well safety and metering. AS 41.06.210(8).

8. Carbon dioxide leaks threaten plants, wildlife, ecosystems, and subsistence

AOGCC agrees that uncontrolled carbon dioxide releases can have detrimental consequences to human health, plants, fish, wildlife, soil and water quality. AOGCC, implementing the carbon storage statutes and federal codes permitting Class VI wells, believes the state is not risking damage to the "precious and fragile ecosystems of the state..." The AOGCC carbon storage regulations implementing the Alaska statutes are designed to be as stringent as the Class VI federal code and are designed to keep injected carbon dioxide confined to the wells and storage formation/reservoir, protecting subsurface confining layers, wellbore penetrations, and ultimately surface populations, and underground sources of drinking water. AOGCC further notes that Class VI permitting includes detailed site characterization, monitoring, mechanical integrity testing, plume tracking, and corrective action requirements specifically intended to minimize the likelihood of uncontrolled migration or release.

9. Lake Nyos comparison

The causes of the sudden, natural release of carbon dioxide as deadly and voluminous as that referenced from the 1986 Lake Nyos incident are unrelated to the proposed activities of Class VI carbon storage. AOGCC continues to believe the Lake Nyos event is not technically analogous to engineered Class VI injection and storage operations regulated under the SDWA framework.

10. CCUS energy intensity and electricity price impacts

AOGCC, as Alaska's oil and gas, geothermal, and CCUS regulator, does not have a position or response to CCUS being energy-intensive, an energy penalty, the retail price of electricity in Alaska, Railbelt electric grid challenges, or the use of Alaska's fossil fuel to power CCUS. AOGCC's mission is "To protect the public interest in exploration and development of Alaska's valuable oil, gas, and geothermal resources through the application of conservation

practices designed to ensure greater ultimate recovery and the protection of health, safety, fresh ground waters and the rights of all owners to recover their share of the resource.” AOGCC reiterates that its statutory mission is focused on resource conservation, public safety, and protection of underground sources of drinking water rather than statewide energy planning or electricity pricing policy.

11. AOGCC has weak enforcement and transparency history

AOGCC disagrees with the comment “While the Commission has taken anemic enforcement actions against Hilcorp for some 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.” AOGCC’s final decision on the matter is contained in Other Order 191 (January 20, 2022). AOGCC also disagrees with the characterization of the AOGCC’s handling of the “gas leak at a ConocoPhillips oil field on the North Slope[.]” AOGCC, under Docket OTH-22-012, provided a full accounting and timeline resulting in enforcement action and Other Order 200 being issued July 19, 2023. AOGCC also disagrees with the additional comments relating to AOGCC’s public transparency and accountability, credibility, and alleged conflicts of interest. AOGCC believes it has established a reliable track record of integrity and strong environmental enforcement and a commitment to protect Alaska’s people and environment. AOGCC believes that the Class VI primacy and Class VI program, once implemented, will only serve to enhance this already reliable track record. Finally, AOGCC notes that enforcement matters are evaluated on a case-by-case basis under existing statutory and regulatory authority. Prior enforcement actions and public orders remain available in AOGCC records.

12. AOGCC may choose not to pursue primacy

While the AOGCC agrees AS 31.05.030(h) uses permissive and not mandatory language, the AOGCC disagrees with the commenter that the State of Alaska should not pursue primary permitting authority. AOGCC further notes that Class VI wells are already permissible in Alaska under federal authority and that primacy changes the permitting authority, not whether Class VI wells may legally exist in the state.

13. Alaska should delay primacy until capacity is improved

AOGCC acknowledges the commenter’s recommendation that the state delay pursuit of primacy. However, AOGCC believes development now of a state-administered Class VI program is an appropriate and responsible path forward and is consistent with legislative direction under HB 50 and AS 31.05.030(h).

Sincerely,

Thomas W McKay
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Thomas W. McKay
Chair, Commissioner

Jessie L. Chmielowski
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Jessie L. Chmielowski
Commissioner

Gregory C Wilson
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Gregory C. Wilson
Commissioner