

By: West

H.B. No. 2984

A BILL TO BE ENTITLED

AN ACT

relating to the composition of and use of money in the oil-field cleanup fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 91.001, Natural Resources Code, is amended by adding Subdivisions (4) and (5) to read as follows:

(4) "Orphaned site" means a surface location on which is located a facility:

(A) that has been inactive for at least 12 months; and

(B) the operator of which as shown in the records of the commission has not had a commission-approved organization report on file as required by Section 91.142 for at least 12 months.

(5) "Orphaned well" means an oil or gas well:

(A) that has been inactive for at least 12 months; and

(B) the operator of which as shown in the records of the commission has not had a commission-approved organization report on file as required by Section 91.142 for at least 12 months.

SECTION 2. Section 91.013(a), Natural Resources Code, is amended to read as follows:

(a) If the owner of a well described in Subsection (a) of Section 91.012 of this code neglects or refuses to have the well plugged or shut in for more than 20 days after written notice is

1 given to the owner [~~him~~], the owner or operator of adjacent or
2 neighboring land may enter the premises on which the well is located
3 and have the well plugged if it is an orphaned [~~abandoned~~] well or
4 shut in if it is not an orphaned well [~~abandoned~~], in the manner
5 provided by law.

6 SECTION 3. Sections 91.111(c) and (e), Natural Resources
7 Code, are amended to read as follows:

8 (c) The fund consists of:

9 (1) penalties imposed under Section 85.381 for
10 violation of a law, order, or rule relating to well plugging
11 requirements;

12 (2) proceeds from bonds and other financial assurances
13 required by this chapter, subject to the refund provisions of
14 Section 91.1091;

15 (3) private contributions, including contributions
16 made under Section 89.084;

17 (4) expenses collected under Section 89.083;

18 (5) fees imposed under Section 85.2021;

19 (6) civil penalties collected for violations of
20 Chapter 89 or of rules or orders relating to plugging that are
21 adopted under this code;

22 (7) proceeds collected under Sections 89.085 and
23 91.115;

24 (8) interest earned on the funds deposited in the
25 fund;

26 (9) fees collected under Section 91.104;

27 (10) civil penalties or costs recovered under Section

1 91.457 or 91.459;

2 (11) oil and gas waste hauler permit application fees
3 collected under Section 29.015, Water Code;

4 (12) costs recovered under Section 91.113(f);

5 (13) [~~hazardous oil and gas waste generation fees~~
6 ~~collected under Section 91.605,~~

7 [~~(14)~~] oil-field cleanup regulatory fees on oil
8 collected under Section 81.116;

9 (14) [~~(15)~~] oil-field cleanup regulatory fees on gas
10 collected under Section 81.117;

11 (15) [~~(16)~~] fees for a reissued certificate collected
12 under Section 85.167;

13 (16) [~~(17)~~] fees collected under Section 91.1013;

14 (17) [~~(18)~~] fees collected under Section 89.088;

15 (18) [~~(19)~~] penalties collected under Section
16 81.0531;

17 (19) [~~(20)~~] fees collected under Section 91.142;

18 (20) [~~(21) fees collected under Section 91.654,~~

19 [~~(22)~~] costs recovered under Sections 91.656 and
20 91.657;

21 (21) [~~(23)~~] two-thirds of the fees collected under
22 Section 81.0521; and

23 (22) [~~(24)~~] legislative appropriations.

24 (e) The commission, through the legislative appropriations
25 request process, shall establish specific performance goals for the
26 oil-field cleanup fund for the next biennium, including goals for
27 the number of:

1 (1) site investigations and environmental assessments
2 to be conducted;

3 (2) orphaned [~~abandoned~~] wells to be plugged; and

4 (3) surface locations to be remediated.

5 SECTION 4. Section 91.112, Natural Resources Code, is
6 amended to read as follows:

7 Sec. 91.112. PURPOSE OF THE FUND. (a) Money in the fund may
8 be used by the commission or its employees or agents for:

9 (1) conducting a site investigation or environmental
10 assessment of orphaned wells and orphaned sites to determine:

11 (A) the nature and extent of contamination caused
12 by oil and gas wastes or other substances or materials regulated by
13 the commission under Section 91.101; and

14 (B) the measures that should be taken to control
15 or clean up the wastes, substances, or materials described in
16 Paragraph (A);

17 (2) controlling or cleaning up oil and gas wastes or
18 other substances or materials regulated by the commission under
19 Section 91.101 that are causing or are likely to cause the pollution
20 of surface or subsurface water at orphaned wells and orphaned
21 sites, consistent with Section 91.113;

22 (3) plugging orphaned [~~abandoned~~] wells [~~and~~
23 ~~administering or enforcing permits, orders, and rules relating to~~
24 ~~the commission's authority to prevent pollution under this chapter,~~
25 ~~Chapter 89, or any other law administered or enforced by the~~
26 ~~commission under Title 3]; and~~

27 (4) [~~implementing Subchapter N and enforcing rules,~~

1 ~~orders, and permits adopted or issued under that subchapter,~~

2 ~~[(5) implementing the voluntary cleanup program under~~
3 ~~Subchapter O, and~~

4 ~~[(6)]~~ preparing the report required under Subsection
5 (b).

6 (b) The commission shall submit to the legislature and make
7 available to the public, annually, a report that reviews the extent
8 to which money provided under Section 91.111 has enabled the
9 commission to better protect the environment and enhance the income
10 of the oil-field cleanup fund. The report shall include:

11 (1) the number of wells plugged, by region;

12 (2) the number of orphaned wells [~~abandoned~~], by
13 region;

14 (3) the number of inactive wells not currently in
15 compliance with commission rules, by region;

16 (4) [~~the status of enforcement proceedings for all~~
17 ~~wells in violation of commission rules and the time period during~~
18 ~~which the wells have been in violation, by region in which the wells~~
19 ~~are located,~~

20 ~~[(5)]~~ the number of surface locations remediated, by
21 region;

22 (5) [(6)] a detailed accounting of expenditures of
23 money in the fund, including expenditures for site investigations
24 and environmental assessments, plugging of orphaned [~~abandoned~~]
25 wells, remediation of surface locations, and staff salaries and
26 other administrative expenses;

27 (6) [(7)] the criteria used [~~method~~] by [~~which~~] the

1 commission to determine the priority of expenditures of money in
2 the fund [~~sets priorities by which it determines the order in which~~
3 ~~abandoned wells are plugged~~];

4 (7) the current list of orphaned wells and well-sites,
5 and surface locations that require remediation, ranked in order of
6 priority, and an anticipated schedule of when the plugging or
7 remediation work will begin;

8 (8) a projection of the amount of money needed for the
9 next biennium for conducting site investigations and environmental
10 assessments, plugging orphaned [~~abandoned~~] wells, and remediating
11 surface locations; and

12 (9) the status of implementation of the provisions of
13 Section 89.085 relating to possession and sale of equipment to
14 recover plugging costs[~~, and~~

15 [~~(10) the number of sites successfully remediated~~
16 ~~under the voluntary cleanup program under Subchapter O, by region]~~.

17 (c) The commission may not use for a purpose other than
18 paying agents of the commission to plug orphaned wells or remediate
19 surface locations more than 25 percent of the total amount of money
20 in the fund spent by the commission in a state fiscal year.

21 (d) Of the money in the fund spent by the commission in a
22 state fiscal year for the purposes of Subsections (a)(2) and (3),
23 the commission shall spend:

24 (1) not more than 20 percent for the purposes of
25 Subsection (a)(2); and

26 (2) not less than 80 percent for the purposes of
27 Subsection (a)(3).

1 (e) Notwithstanding Subsection (d), if the commission
2 determines that the allocation of spending between Subsections
3 (a)(2) and (3) required by Subsection (d) in a state fiscal year is
4 insufficient to prevent or remediate the pollution of surface or
5 subsurface water, the commission may allocate:

6 (1) for the purposes of Subsection (a)(2) a greater
7 amount than the amount authorized by Subsection (d)(1); and

8 (2) for the purposes of Subsection (a)(3) a lesser
9 amount than the amount required by Subsection (d)(2).

10 (f) Notwithstanding Subsection (d), the commission, in
11 order to protect the public health or the environment, including
12 water in the state, in the event of an emergency may spend money in
13 the fund in a manner that is inconsistent with that subsection if
14 the commission determines that the expenditure is necessary to
15 prevent, abate, or control the discharge or potential discharge of
16 hydrocarbons or oil and gas waste from a well. An expenditure of
17 money under this subsection may not exceed \$100,000 unless the
18 commission first approves the expenditure at an open meeting,
19 including an open emergency meeting, held for the purpose of
20 approving the expenditure. The chairman of the commission shall
21 notify the presiding officer of the oil-field cleanup fund advisory
22 committee of the expenditure of money under this subsection not
23 later than 24 hours after the expenditure is made.

24 SECTION 5. Section 91.1132, Natural Resources Code, is
25 amended to read as follows:

26 Sec. 91.1132. PRIORITIZATION OF HIGH-RISK WELLS. The
27 commission by rule shall develop a system for:

1 (1) identifying orphaned [~~abandoned~~] wells that pose a
2 high risk of contaminating surface water or groundwater;

3 (2) periodically testing high-risk wells by
4 conducting a fluid level test or, if necessary, a pressure test;
5 and

6 (3) giving priority to plugging high-risk wells with
7 compromised casings.

8 SECTION 6. Section 91.605(e), Natural Resources Code, is
9 amended to read as follows:

10 (e) The fees collected under this section shall be deposited
11 in the general revenue fund [~~oil-field cleanup fund~~].

12 SECTION 7. Section 91.654(e), Natural Resources Code, is
13 amended to read as follows:

14 (e) Fees collected under this section shall be deposited in
15 the general revenue fund [~~to the credit of the oil-field cleanup~~
16 ~~fund under Section 91.111~~].

17 SECTION 8. This Act takes effect September 1, 2005.