

By: Gonzalez Toureilles, Hardcastle, Chisum

H.B. No. 3837

A BILL TO BE ENTITLED

1

AN ACT

2 relating to regulation by the Railroad Commission of Texas of
3 uranium exploration.

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

5 SECTION 1. Sections 131.001, 131.002, and 131.003, Natural
6 Resources Code, are amended to read as follows:

7 Sec. 131.001. SHORT TITLE. This chapter may be cited as the
8 Texas Uranium Exploration, Surface Mining, and Reclamation Act.

9 Sec. 131.002. DECLARATION OF POLICY. The legislature finds
10 and declares that:

11 (1) the extraction of minerals by surface mining
12 operations is a basic and essential activity making an important
13 contribution to the economic well-being of the state and nation;

14 (2) proper reclamation of land explored for minerals
15 and surface-mined land is necessary to prevent undesirable land and
16 water conditions that would be detrimental to the general welfare,
17 health, safety, and property rights of the citizens of this state;

18 (3) surface mining takes place in diverse areas where
19 the geologic, topographic, climatic, biological, and social
20 conditions are significantly different and that reclamation
21 operations and the specifications for reclamation operations must
22 vary accordingly;

23 (4) it is not always possible to explore for or to
24 extract minerals required by our society without disturbing the

1 ~~[surface of the]~~ earth and producing waste materials, and the very
2 character of certain types of surface mining operations
3 occasionally precludes complete restoration of the affected land to
4 its original condition;

5 (5) unregulated surface mining may destroy or diminish
6 the utility of land for commercial, industrial, residential,
7 recreational, agricultural, and forestry purposes by causing
8 erosion and landslides, by contributing to floods, by polluting the
9 water, by destroying fish and wildlife habitats, by impairing
10 natural beauty, by damaging the property of citizens, by creating
11 hazards dangerous to life and property, by degrading the quality of
12 life in local communities, and by counteracting governmental
13 programs and efforts to conserve soil, water, and other natural
14 resources, which results are declared to be inimical to the public
15 interest and destructive to the public health, safety, welfare, and
16 economy of the State of Texas;

17 (6) due to its unique character or location, some land
18 within the state may be unsuitable for all or certain types of
19 surface mining operations;

20 (7) reclamation of land explored for minerals and
21 surface-mined land as provided by this chapter will allow the
22 mining of valuable minerals in a manner designed for the protection
23 and subsequent beneficial use of land; and

24 (8) the requirements of this chapter for reclamation
25 and maintenance of affected land are necessary for the public
26 health and safety and thus constitute a valid application of the
27 police power of this state.

1 Sec. 131.003. PURPOSES. It is declared to be the purpose of
2 this chapter:

3 (1) to prevent the adverse effects to society and the
4 environment resulting from unregulated surface mining operations
5 as defined in this chapter;

6 (2) to assure that the rights of surface landowners
7 and other persons with a legal interest in the land or appurtenances
8 to the land are protected from unregulated surface mining
9 operations;

10 (3) to assure that surface mining operations are not
11 conducted where reclamation as required by this chapter is not
12 possible;

13 (4) to assure that exploration and surface mining
14 operations are conducted in a manner that will prevent unreasonable
15 degradation of land and water resources; and

16 (5) to assure that reclamation of all explored land
17 and surface-mined land is accomplished as contemporaneously as
18 practicable with the exploration or surface mining, recognizing
19 that the exploration for and extraction of minerals by responsible
20 [~~mining~~] operations is an essential and beneficial economic
21 activity.

22 SECTION 2. Section 131.004(10), Natural Resources Code, is
23 amended to read as follows:

24 (10) "Surface mining permit" or "permit" means the
25 written certification by the commission that the named operator may
26 conduct the surface mining operations described in the
27 certification during the term of the surface mining permit and in

1 the manner established in the certification. These terms do not
2 include:

3 (A) a discharge permit issued by the commission
4 pursuant to Subchapter H of this chapter; or

5 (B) an exploration permit issued by the
6 commission pursuant to Subchapter I of this chapter.

7 SECTION 3. Sections 131.021, 131.022, 131.034, 131.048, and
8 131.301, Natural Resources Code, are amended to read as follows:

9 Sec. 131.021. GENERAL AUTHORITY OF COMMISSION. In seeking
10 to accomplish the purposes of this chapter, the commission shall
11 have the authority:

12 (1) to adopt and amend rules pertaining to
13 exploration, surface mining, and reclamation operations consistent
14 with the general intent and purposes of this chapter;

15 (2) to issue permits pursuant to the provisions of
16 this chapter;

17 (3) to conduct hearings pursuant to the provisions of
18 this chapter;

19 (4) to issue orders requiring an operator to take
20 actions that are necessary to comply with this chapter and with
21 rules adopted under this chapter;

22 (5) to issue orders modifying previous orders;

23 (6) to issue a final order revoking the permit of an
24 operator who has failed to comply with an order of the commission to
25 take action required by this chapter or rules adopted under this
26 chapter;

27 (7) to order the immediate cessation of an ongoing

1 exploration or surface mining operation if the commission finds
2 that the operation creates an imminent danger to the health or
3 safety of the public, or is causing or can reasonably be expected to
4 cause significant imminent environmental harm to land, air, or
5 water resources, and to take other action or make changes in a
6 permit that are reasonably necessary to avoid or alleviate these
7 conditions;

8 (8) to hire employees, adopt standards for employment
9 of these persons, and hire and authorize the hiring of outside
10 contractors to assist in carrying out the requirements of this
11 chapter;

12 (9) to enter on and inspect, in person or by its
13 agents, an exploration or a surface mining operation that is
14 subject to the provisions of this chapter to assure compliance with
15 the terms of this chapter;

16 (10) to conduct, encourage, request, and participate
17 in studies, surveys, investigations, research, experiments,
18 training, and demonstrations by contract, grant, or otherwise;

19 (11) to prepare reports and to require persons who
20 hold exploration or surface mining permits [~~permittees~~] to prepare
21 reports;

22 (12) to collect and disseminate to the public
23 information considered reasonable and necessary for the proper
24 enforcement of this chapter;

25 (13) to accept, receive, and administer grants, gifts,
26 loans, or other funds made available from any source for the
27 purposes of this chapter;

1 (14) to enter into contracts with state boards and
2 agencies that have pertinent expertise to obtain professional and
3 technical services necessary to carry out the provisions of this
4 chapter; and

5 (15) to perform other duties and acts required by and
6 provided for in this chapter.

7 Sec. 131.022. JURISDICTION OF COMMISSION. (a) The
8 commission is the mining and reclamation authority for the State of
9 Texas and has exclusive jurisdiction for establishing reclamation
10 requirements for mining and exploration operations in this state,
11 except for in situ recovery processes.

12 (b) Except as provided by Section 131.354, the commission
13 has exclusive jurisdiction and is solely responsible for the
14 regulation of all exploration activities.

15 Sec. 131.034. EXPLORATION ACTIVITIES. The commission shall
16 promulgate rules governing uranium exploration activity [~~in the~~
17 ~~manner provided in Sections 131.026 through 131.031 of this code~~
18 ~~for the conduct of exploration activities~~].

19 Sec. 131.048. CONFIDENTIALITY. Information submitted to
20 the commission concerning mineral deposits, including test
21 borings, core samplings, geophysical logs, or trade secrets or
22 privileged commercial or financial information relating to the
23 competitive rights of the applicant for an exploration permit or
24 surface mining permit and specifically identified as confidential
25 by the applicant, if not essential for public review as determined
26 by the commission, shall not be disclosed by any member, agent, or
27 employee of the commission.

1 Sec. 131.301. DISCHARGE RULES, ORDERS, AND PERMITS. To
2 prevent the pollution of surface and subsurface water in the state,
3 the commission has the exclusive authority to ~~[shall]~~ adopt rules
4 and may issue orders and permits relating to the discharge or runoff
5 of waste or any other substance or material from any permitted
6 uranium exploration activity. Notwithstanding any provision of any
7 other section of this chapter, a rule adopted, order issued, or
8 permit issued ~~[issuable]~~ by the commission under this subchapter
9 shall be ~~[issued,]~~ administered~~[,]~~ and enforced solely in the
10 manner provided by ~~[in]~~ this subchapter by the~~[, in such]~~ rule,
11 order, or permit, or by ~~[in]~~ Chapter 2001, Government Code.

12 SECTION 4. Section 131.261(a), Natural Resources Code, is
13 amended to read as follows:

14 (a) On the basis of any inspection, if the commission or its
15 authorized representative or agent determines that a condition or
16 practice exists or that a permittee is in violation of a requirement
17 of this chapter or a permit condition required by this chapter, and
18 that this condition, practice, or violation also creates an
19 imminent danger to the health or safety of the public or is causing
20 or can reasonably be expected to cause significant imminent harm to
21 land, air, or water resources, a member of the commission shall
22 immediately order a cessation of exploration or surface mining
23 operations on the portion of the area relevant to the condition,
24 practice, or violation.

25 SECTION 5. Sections 131.262(a) and (b), Natural Resources
26 Code, are amended to read as follows:

27 (a) On the basis of an inspection, if the commission or its

1 authorized representative or agent determines that a permittee is
2 in violation of a requirement of this chapter or a permit condition
3 required by this chapter, but the violation does not create an
4 imminent danger to the health or safety of the public or is not
5 causing or reasonably expected to cause significant imminent harm
6 to land, air, or water resources, the commission shall issue a
7 notice to the permittee or the permittee's ~~[his]~~ agent setting a
8 reasonable time not to exceed 30 days for the abatement of the
9 violation. The commission may authorize an extension of the period
10 of time for the abatement of the violation, for good cause as
11 determined by a written finding by the commission. If the violation
12 pertains to exploration activities, the commission may not
13 authorize an extension of the period of time for the abatement of
14 the violation to a date later than the 60th day after the date the
15 commission issued the notice to the permittee.

16 (b) If, on expiration of the period of time as originally
17 set or subsequently extended, ~~[for good cause shown, and on written~~
18 ~~finding of the commission,~~] the commission finds that the violation
19 has not been abated, it may order a cessation of exploration or
20 surface mining operations on the portion of this area relevant to
21 the violation. However, if requested by the operator, a hearing
22 must be held prior to a commission finding or order.

23 SECTION 6. Chapter 131, Natural Resources Code, is amended
24 by adding Subchapter I to read as follows:

25 SUBCHAPTER I. PERMITS FOR EXPLORATION ACTIVITIES

26 Sec. 131.351. APPLICABILITY OF SUBCHAPTER. (a) If this
27 subchapter conflicts with other law, this subchapter controls.

1 (b) Sections 131.037, 131.038, 131.039, 131.040, 131.041,
2 131.042, 131.043, 131.044, and 131.045 do not apply to exploration
3 activity subject to an exploration permit issued under this
4 subchapter.

5 Sec. 131.352. EXPLORATION PERMITS. (a) A person may not
6 conduct exploration activity unless the person holds an exploration
7 permit issued by the commission.

8 (b) An exploration permit issued by the commission may
9 contain provisions and conditions necessary to implement the
10 policies of this subchapter. The commission shall adopt rules
11 governing the amendment, revocation, transfer, or suspension of an
12 exploration permit.

13 (c) A person may conduct exploration activities under an
14 exploration permit issued by the commission until the term expires
15 or may apply for a new exploration permit issued under this
16 subchapter if:

17 (1) the person has been exploring under an exploration
18 permit issued before June 1, 2007; or

19 (2) the person has a pending application on file
20 before June 1, 2007, and is issued the exploration permit after that
21 date.

22 (d) On expiration of an exploration permit held by a person
23 described by Subsection (c)(1) or (2), the person may apply for an
24 exploration permit renewal under this subchapter.

25 Sec. 131.353. SCOPE OF EXPLORATION PERMIT. (a) An
26 exploration permit may govern all activities associated with
27 determining the location, quantity, or quality of uranium deposits.

1 (b) An exploration permit must contain provisions to
2 govern:

3 (1) locating, drilling, plugging, and abandoning
4 exploration holes;

5 (2) casing exploration holes for use in the
6 exploration process;

7 (3) using cased exploration wells for rig supply
8 purposes; and

9 (4) plugging and abandoning cased exploration wells.

10 (c) Except as provided by Section 131.354, a cased
11 exploration well subject to an exploration permit issued under this
12 subchapter is exempt from regulation by another agency,
13 governmental entity, or political subdivision if the well is:

14 (1) used for exploration; or

15 (2) used for rig supply purposes.

16 Sec. 131.354. COMMISSION JURISDICTION. (a) The commission
17 has jurisdiction over uranium exploration holes and cased
18 exploration wells completed under an exploration permit issued
19 under this subchapter until:

20 (1) exploration holes and cased exploration wells are
21 properly plugged and abandoned; or

22 (2) cased exploration wells are:

23 (A) registered with the Texas Commission on
24 Environmental Quality; or

25 (B) included in an area permit issued by the
26 Texas Commission on Environmental Quality under Chapter 27, Water
27 Code.

1 (b) A well described by Section 131.353(c) is subject to a
2 groundwater conservation district's rules regarding registration
3 of wells if:

4 (1) the well is located in the groundwater
5 conservation district and the well is used for monitoring purposes;
6 and

7 (2) the cumulative amount of water produced from the
8 wells located inside the area subject to the exploration permit and
9 completed under the exploration permit issued under this subchapter
10 exceeds 40 acre feet in one year.

11 (c) A well described by Section 131.353(c) is subject to a
12 groundwater conservation district's rules for registration,
13 production, and reporting if:

14 (1) the well is located in the groundwater
15 conservation district and the well is used for rig supply purposes;
16 and

17 (2) the cumulative amount of water produced from the
18 wells located inside the area subject to the exploration permit and
19 completed under the exploration permit issued under this subchapter
20 exceeds 40 acre feet in one year.

21 (d) Each month, the holder of an exploration permit
22 governing a well described by Section 131.353(c) and located in a
23 groundwater conservation district shall report to the district the
24 total amount of water produced from each well located inside the
25 area subject to the exploration permit.

26 (e) Each groundwater conservation district shall use the
27 number of acres described in the exploration permit in determining

1 any district production requirements.

2 Sec. 131.355. APPLICATION FEES. (a) The commission may
3 impose an application fee to recover the costs of administering
4 this subchapter.

5 (b) Section 131.231 does not apply to a fee imposed under
6 this subchapter.

7 Sec. 131.356. NOTIFICATION BY COMMISSION. (a) At the time
8 the commission receives an application for an exploration permit,
9 the commission shall provide written notice of the exploration
10 permit application to:

11 (1) each groundwater conservation district in the area
12 in which the permitted exploration will occur;

13 (2) the mayor and health authority of each
14 municipality in the area in which the permitted exploration will
15 occur;

16 (3) the county judge and health authority of each
17 county in the area in which the permitted exploration will occur;
18 and

19 (4) each member of the legislature who represents the
20 area in which the proposed exploration will occur.

21 (b) At the time the commission issues an exploration permit
22 under this subchapter, the commission shall provide written notice
23 of the exploration permit to:

24 (1) each groundwater conservation district in the area
25 in which the permitted exploration will occur;

26 (2) the mayor and health authority of each
27 municipality in the area in which the permitted exploration will

1 occur;

2 (3) the county judge and health authority of each
3 county in the area in which the permitted exploration will occur;
4 and

5 (4) each member of the legislature who represents the
6 area in which the proposed exploration will occur.

7 Sec. 131.357. GEOLOGIC, HYDROLOGIC, WATER QUALITY, AND WELL
8 INFORMATION. (a) A person issued an exploration permit under this
9 subchapter that authorizes exploration in a groundwater
10 conservation district shall provide to the district:

11 (1) pre-exploration water quality information from:

12 (A) each existing well located in the district
13 that is tested by the person before exploration; and

14 (B) each existing well located inside the area
15 subject to the exploration permit, or, if at least 10 existing wells
16 are located inside that area, 10 wells that are equally distributed
17 inside that area;

18 (2) pre-mining water quality information from:

19 (A) each existing well in the jurisdiction of the
20 groundwater conservation district that the person tests during
21 exploration; and

22 (B) cased exploration wells completed under the
23 exploration permit issued under this subchapter; and

24 (3) well logs that do not contain confidential
25 information as described by Section 131.048.

26 (b) A person may take not more than 90 days after the person
27 receives the final information to perform standard quality control

1 and quality assurance procedures before submitting the information
2 as required by Subsection (a).

3 (c) If the commission issues an exploration permit under
4 this subchapter to a person for wells described by Section
5 131.353(c) that are located inside a groundwater conservation
6 district, the person shall provide to the district:

7 (1) well completion information for each well in the
8 district;

9 (2) the location of each well in the district,
10 including a legal description and the acreage of the property where
11 the well is located;

12 (3) the person's name, address, and telephone number;

13 (4) verification that each well will be used for an
14 industrial purpose;

15 (5) the type and capacity of the pump used in each
16 well; and

17 (6) a copy of the well log for each well required by
18 Section 1901.251, Occupations Code.

19 SECTION 7. This Act takes effect September 1, 2007.