

By: Gonzalez Toureilles, Hardcastle, Chisum

H.B. No. 3837

Substitute the following for H.B. No. 3837:

By: Crabb

C.S.H.B. No. 3837

A BILL TO BE ENTITLED

AN ACT

1  
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. Chapter 131, Natural Resources Code, is amended  
13 by adding Subchapter I to read as follows:

14                   SUBCHAPTER I. PERMITS FOR EXPLORATION ACTIVITIES

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

17                   (b) Sections 131.037, 131.038, 131.039, 131.040, 131.041,  
18 131.042, 131.043, 131.044, and 131.045 do not apply to exploration  
19 activity subject to an exploration permit issued under this  
20 subchapter.

21           Sec. 131.352. EXPLORATION PERMITS. (a) A person may not  
22 conduct exploration activity unless the person holds an exploration  
23 permit issued by the commission.

24                   (b) An exploration permit issued by the commission may  
25 contain provisions and conditions necessary to implement the  
26 policies of this subchapter. The commission shall adopt rules  
27 governing the amendment, revocation, transfer, or suspension of an

1 exploration permit.

2 (c) A person may conduct exploration activities under an  
3 exploration permit issued by the commission until the term expires  
4 or may apply for a new exploration permit issued under this  
5 subchapter if:

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

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

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

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

17 (b) An exploration permit must contain provisions to  
18 govern:

19 (1) locating, drilling, plugging, and abandoning  
20 exploration holes;

21 (2) casing exploration holes for use in the  
22 exploration process;

23 (3) using cased exploration wells for rig supply  
24 purposes; and

25 (4) plugging and abandoning cased exploration wells.

26 (c) Except as provided by Section 131.354, a cased  
27 exploration well subject to an exploration permit issued under this



1 subchapter is exempt from regulation by another agency,  
2 governmental entity, or political subdivision if the well is:

3 (1) used for exploration; or

4 (2) used for rig supply purposes.

5 Sec. 131.354. COMMISSION JURISDICTION. (a) The commission  
6 has jurisdiction over uranium exploration holes and cased  
7 exploration wells completed under an exploration permit issued  
8 under this subchapter until:

9 (1) exploration holes and cased exploration wells are  
10 properly plugged and abandoned; or

11 (2) cased exploration wells are:

12 (A) registered with the Texas Commission on  
13 Environmental Quality; or

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

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

20 (1) the well is located in the groundwater  
21 conservation district and the well is used for monitoring purposes;  
22 and

23 (2) the cumulative amount of water produced from the  
24 wells located inside the area subject to the exploration permit and  
25 completed under the exploration permit issued under this section  
26 exceeds 40 acre feet in one year.

27 (c) A well described by Section 131.353(c) is subject to a

1 groundwater conservation district's rules for registration,  
2 production, and reporting if:

3 (1) the well is located in the groundwater  
4 conservation district and the well is used for rig supply purposes;  
5 and

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

10 (d) Each month, the holder of an exploration permit  
11 governing a well described by Section 131.353(c) and located in a  
12 groundwater conservation district shall report to the district the  
13 total amount of water produced from each well located inside the  
14 area subject to the exploration permit.

15 (e) Each groundwater conservation district shall use the  
16 number of acres described in the exploration permit in determining  
17 any district production requirements.

18 Sec. 131.355. APPLICATION FEES. (a) The commission may  
19 impose an application fee to recover the costs of administering  
20 this subchapter.

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

23 Sec. 131.356. NOTIFICATION BY COMMISSION. (a) At the time  
24 the commission receives an application for an exploration permit,  
25 the commission shall provide written notice of the exploration  
26 permit application to:

27 (1) each groundwater conservation district in the area

1 in which the permitted exploration will occur;

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

5 (3) the county judge and health authority of each  
6 county in the area in which the permitted exploration will occur;  
7 and

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

10 (b) At the time the commission issues an exploration permit  
11 under this subchapter, the commission shall provide written notice  
12 of the exploration permit to:

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

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

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

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

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

27 (1) pre-exploration water quality information from

1 each existing well located in the district that is tested by the  
2 person before exploration;

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

4 (A) each existing well in the jurisdiction of the  
5 groundwater conservation district that the person tests during  
6 exploration; and

7 (B) cased exploration wells completed under the  
8 exploration permit issued under this subchapter; and

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

11 (b) A person may take not more than 90 days after the person  
12 receives the final information to perform standard quality control  
13 and quality assurance procedures before submitting the information  
14 as required by Subsection (a).

15 (c) If the commission issues an exploration permit under  
16 this subchapter to a person for wells described by Section  
17 131.353(c) that are located inside a groundwater conservation  
18 district, the person shall provide to the district:

19 (1) well completion information for each well in the  
20 district; and

21 (2) the location of each well in the district,  
22 including a legal description of the property where the well is  
23 located.

24 SECTION 5. This Act takes effect September 1, 2007.