

By: Gonzalez Toureilles

H.B. No. 3837

A BILL TO BE ENTITLED

1 AN ACT

2 relating to regulation by the railroad commission of injection  
3 wells used for in situ uranium mining.

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  
8 the Texas Uranium In Situ Exploration, Surface Mining, and Surface  
9 Mine Reclamation Act.

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

12 (1) the extraction of minerals by surface mining  
13 operations or by related mineral recovery processes or technologies  
14 is a basic and essential activity making an important contribution  
15 to the economic well-being of the state and nation;

16 (2) the exploration for and delineation of the state's  
17 mineral resources is a basic and essential activity for the  
18 economic well-being of the state and the nation;

19 (3) [~~2~~] proper reclamation of land explored for  
20 minerals and surface-mined land is necessary to prevent undesirable  
21 land and water conditions that would be detrimental to the general  
22 welfare, health, safety, and property rights of the citizens of  
23 this state;

24 (4) [~~3~~—surface] mining activities take [~~takes~~]

1 place in diverse areas where the geologic, topographic, climatic,  
2 biological, and social conditions are significantly different and  
3 that reclamation operations and the specifications for reclamation  
4 operations must vary accordingly;

5       (5) [~~(4)~~] it is not always possible to explore for or  
6 to extract minerals required by our society without disturbing the  
7 [~~surface of the~~] earth and producing waste materials, and the very  
8 character of certain types of surface mining operations  
9 occasionally precludes complete restoration of the affected land to  
10 its original condition;

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

23       (7) [~~(6)~~] due to its unique character or location,  
24 some land within the state may be unsuitable for all or certain  
25 types of surface mining operations;

26       (8) [~~(7)~~] reclamation of land explored for minerals  
27 and surface-mined land as provided by this chapter will allow the

1 mining of valuable minerals in a manner designed for the protection  
2 and subsequent beneficial use of land; and

3 (9) [~~(8)~~] the requirements of this chapter for  
4 reclamation and maintenance of affected land are necessary for the  
5 public health and safety and thus constitute a valid application of  
6 the police power of this state.

7 Sec. 131.003. PURPOSES. It is declared to be the purpose  
8 of this chapter:

9 (1) to prevent the adverse effects to society and the  
10 environment resulting from unregulated surface mining operations  
11 as defined in this chapter;

12 (2) to assure that the rights of surface landowners  
13 and other persons with a legal interest in the land or appurtenances  
14 to the land are protected from unregulated surface mining  
15 operations;

16 (3) to assure that surface mining operations are not  
17 conducted where reclamation as required by this chapter is not  
18 possible;

19 (4) to assure that in situ exploration and [~~surface~~]  
20 mining operations that are within the jurisdiction of the  
21 commission are conducted in a manner that will prevent unreasonable  
22 degradation of land and water resources; and

23 (5) to assure that reclamation of all surface-mined  
24 land is accomplished as contemporaneously as practicable with the  
25 surface mining, recognizing that the extraction of minerals by  
26 responsible mining operations is an essential and beneficial  
27 economic activity.

1 SECTION 2. Section 131.004, Natural Resources Code, is  
2 amended by amending Subdivisions (3) and (10) and adding  
3 Subdivision (19) to read as follows:

4 (3) "Exploration activity" means the disturbance of  
5 the surface or subsurface for the purpose of or related to  
6 determining the location, quantity, or quality of a mineral  
7 deposit, which may be extracted through surface mining or related  
8 mineral recovery processes or technologies. This term does not  
9 include in situ exploration activity.

10 (10) "Surface mining permit" or "permit" means the  
11 written certification by the commission that the named operator may  
12 conduct the surface mining operations described in the  
13 certification during the term of the surface mining permit and in  
14 the manner established in the certification. These terms do not  
15 include:

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

18 (B) an in situ exploration permit issued by the  
19 commission pursuant to Subchapter I of this chapter.

20 (19) "In situ exploration activity" means the use of  
21 boreholes and cased exploration wells for the purpose of  
22 determining the location, quantity, or quality of uranium deposits  
23 that may be recovered using in situ recovery processes.

24 SECTION 3. Subchapter A, Chapter 131, Natural Resources  
25 Code, is amended by adding Section 131.007 to read as follows:

26 Sec. 131.007. CONFLICT WITH WATER CODE. To the extent this  
27 chapter conflicts with Chapter 36, Water Code, regarding the

1 protection or management of groundwater associated with an  
2 exploration activity under the commission's jurisdiction, this  
3 chapter controls.

4 SECTION 4. Sections 131.021, 131.022, 131.034, 131.042,  
5 131.048, and 131.301, Natural Resources Code, are amended to read  
6 as follows:

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

10 (1) to adopt and amend rules pertaining to in situ  
11 exploration, surface mining, and related mineral recovery  
12 technologies or processes, and mine reclamation operations  
13 consistent with the general intent and purposes of this chapter;

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

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

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

21 (5) to issue orders modifying previous orders;

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

26 (7) to order the immediate cessation of an ongoing  
27 surface mining operation if the commission finds that the operation

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

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

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

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

17 (11) to prepare and require permittees to prepare  
18 reports;

19 (12) to collect and disseminate to the public  
20 information considered reasonable and necessary for the proper  
21 enforcement of this chapter;

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

25 (14) to enter into contracts with state boards and  
26 agencies that have pertinent expertise to obtain professional and  
27 technical services necessary to carry out the provisions of this

1 chapter; and

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

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

9 (b) The commission has exclusive jurisdiction and is solely  
10 responsible for all permitting associated with in situ exploration  
11 activity.

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

17 Sec. 131.042. RECORDS, REPORTS, MONITORING EQUIPMENT, AND  
18 INFORMATION. The commission shall require each mine permittee to:

19 (1) establish and maintain appropriate records;  
20 (2) make reports as frequently as the commission may  
21 prescribe;

22 (3) install, use, and maintain necessary monitoring  
23 equipment for observing and determining relevant surface or  
24 subsurface effects of the mining operation and reclamation program;  
25 and

26 (4) provide other information relative to mining and  
27 reclamation operations the commission determines to be reasonable

1 and necessary.

2           Sec. 131.048. CONFIDENTIALITY. Information submitted to  
3 the commission concerning mineral deposits, including test  
4 borings, core samplings, geophysical logs, or trade secrets or  
5 privileged commercial or financial information relating to the  
6 competitive rights of the applicant and specifically identified as  
7 confidential by the applicant, if not essential for public review  
8 as determined by the commission, shall not be disclosed by any  
9 member, agent, or employee of the commission.

10           Sec. 131.301. DISCHARGE RULES, ORDERS, AND PERMITS. To  
11 prevent the pollution of surface and subsurface water in the state,  
12 the commission has the exclusive authority to ~~[shall]~~ adopt rules  
13 and may issue orders and permits relating to the discharge or runoff  
14 of waste or any other substance or material from any permitted  
15 uranium exploration or mining activity. Notwithstanding any  
16 provision of any other section of this chapter, a rule, order, or  
17 permit issuable by the commission under this subchapter shall be  
18 issued, administered, and enforced solely in the manner provided in  
19 this subchapter, in such rule, order, or permit, or in Chapter 2001,  
20 Government Code. If this chapter conflicts with other law, this  
21 chapter controls.

22           SECTION 5. Chapter 131, Natural Resources Code, is amended  
23 by adding Subchapter I to read as follows:

24                   SUBCHAPTER I. IN SITU EXPLORATION ACTIVITIES

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

27           (b) Sections 131.037 and 131.042 do not apply to in situ



1 exploration activity subject to a permit issued under this  
2 subchapter.

3 Sec. 131.352. PERMITS. (a) A person may not conduct in  
4 situ exploration activity unless the person holds a permit issued  
5 by the commission that authorizes the activity.

6 (b) A permit issued by the commission may contain provisions  
7 and conditions necessary to implement the policies of this  
8 subchapter. The commission may adopt rules for the amendment,  
9 revocation, transfer, or suspension of a permit.

10 Sec. 131.353. SCOPE OF IN SITU EXPLORATION PERMIT. (a) A  
11 permit that authorizes in situ exploration activity may govern all  
12 activities associated with determining the location, quantity, or  
13 quality of uranium deposits that may be extracted using in situ  
14 recovery processes.

15 (b) A permit that authorizes in situ exploration activity  
16 must contain provisions to govern:

17 (1) locating, drilling, plugging, and abandoning  
18 exploration holes;

19 (2) casing certain exploration holes for use in the  
20 exploration process;

21 (3) using certain cased exploration wells for rig  
22 supply purposes; and

23 (4) plugging and abandoning cased exploration wells.

24 (c) An exploration well subject to a permit issued under  
25 this subchapter is exempt from regulation by another agency,  
26 governmental entity, or political subdivision if the well is:

27 (1) cased; and

1           (2) used for rig supply purposes.

2           Sec. 131.354. COMMISSION JURISDICTION. The commission has  
3 exclusive jurisdiction over uranium exploration holes and cased  
4 exploration wells completed under a permit issued under this  
5 subchapter until:

6           (1) exploration holes and cased exploration wells are  
7 properly plugged and abandoned; or

8           (2) cased exploration wells are:

9                   (A) registered with the Texas Commission on  
10 Environmental Quality; or

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

14           Sec. 131.355. APPLICATION FEES. (a) The commission may  
15 impose an application fee to recover the costs of administering  
16 this subchapter.

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

19           Sec. 131.356. NOTIFICATION BY COMMISSION. At the time the  
20 commission issues a permit under this subchapter, the commission  
21 shall provide written notice of the permit to:

22           (1) each member of a local governmental body that has  
23 jurisdiction over the area subject to the in situ exploration  
24 permit; and

25           (2) each member of the legislature who represents the  
26 area in which the proposed in situ exploration will occur.

27           Sec. 131.357. GEOLOGIC, HYDROLOGIC, AND WATER QUALITY

1 INFORMATION. (a) A person issued a permit under this subchapter  
2 shall provide to the groundwater conservation district in the  
3 county located in the area permit:

4 (1) pre-mining water quality information from:

5 (A) existing wells within the jurisdiction of the  
6 groundwater conservation district; and

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

9 (2) a well log that does not contain confidential  
10 information as defined by Section 131.048.

11 (b) A person may compile and analyze the information for a  
12 reasonable time before submitting the information as required by  
13 Subsection (a).

14 SECTION 6. This Act does not invalidate a permit that  
15 authorizes in situ exploration activity, as defined by Section  
16 131.004, Natural Resources Code, as amended by this Act, that was  
17 issued by the Texas Commission on Environmental Quality before the  
18 effective date of this Act. A permit that authorizes in situ  
19 exploration activity, as defined by that section, that was issued  
20 by the Texas Commission on Environmental Quality before the  
21 effective date of this Act remains in effect until the permit  
22 expires.

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