

1-1 By: Gonzalez Toureillles, Hardcastle, Chisum H.B. No. 3837  
1-2 (Senate Sponsor - Hegar)  
1-3 (In the Senate - Received from the House May 14, 2007;  
1-4 May 15, 2007, read first time and referred to Committee on Natural  
1-5 Resources; May 21, 2007, reported adversely, with favorable  
1-6 Committee Substitute by the following vote: Yeas 10, Nays 0;  
1-7 May 21, 2007, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 3837 By: Hegar

1-9 A BILL TO BE ENTITLED  
1-10 AN ACT

1-11 relating to regulation by the Railroad Commission of Texas of  
1-12 uranium exploration.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Sections 131.001, 131.002, and 131.003, Natural  
1-15 Resources Code, are amended to read as follows:

1-16 Sec. 131.001. SHORT TITLE. This chapter may be cited as the  
1-17 Texas Uranium Exploration, Surface Mining, and Reclamation Act.

1-18 Sec. 131.002. DECLARATION OF POLICY. The legislature finds  
1-19 and declares that:

1-20 (1) the extraction of minerals by surface mining  
1-21 operations is a basic and essential activity making an important  
1-22 contribution to the economic well-being of the state and nation;

1-23 (2) proper reclamation of land explored for minerals  
1-24 and surface-mined land is necessary to prevent undesirable land and  
1-25 water conditions that would be detrimental to the general welfare,  
1-26 health, safety, and property rights of the citizens of this state;

1-27 (3) surface mining takes place in diverse areas where  
1-28 the geologic, topographic, climatic, biological, and social  
1-29 conditions are significantly different and that reclamation  
1-30 operations and the specifications for reclamation operations must  
1-31 vary accordingly;

1-32 (4) it is not always possible to explore for or to  
1-33 extract minerals required by our society without disturbing the  
1-34 [~~surface of the~~] earth and producing waste materials, and the very  
1-35 character of certain types of surface mining operations  
1-36 occasionally precludes complete restoration of the affected land to  
1-37 its original condition;

1-38 (5) unregulated surface mining may destroy or diminish  
1-39 the utility of land for commercial, industrial, residential,  
1-40 recreational, agricultural, and forestry purposes by causing  
1-41 erosion and landslides, by contributing to floods, by polluting the  
1-42 water, by destroying fish and wildlife habitats, by impairing  
1-43 natural beauty, by damaging the property of citizens, by creating  
1-44 hazards dangerous to life and property, by degrading the quality of  
1-45 life in local communities, and by counteracting governmental  
1-46 programs and efforts to conserve soil, water, and other natural  
1-47 resources, which results are declared to be inimical to the public  
1-48 interest and destructive to the public health, safety, welfare, and  
1-49 economy of the State of Texas;

1-50 (6) due to its unique character or location, some land  
1-51 within the state may be unsuitable for all or certain types of  
1-52 surface mining operations;

1-53 (7) reclamation of land explored for minerals and  
1-54 surface-mined land as provided by this chapter will allow the  
1-55 mining of valuable minerals in a manner designed for the protection  
1-56 and subsequent beneficial use of land; and

1-57 (8) the requirements of this chapter for reclamation  
1-58 and maintenance of affected land are necessary for the public  
1-59 health and safety and thus constitute a valid application of the  
1-60 police power of this state.

1-61 Sec. 131.003. PURPOSES. It is declared to be the purpose of  
1-62 this chapter:

1-63 (1) to prevent the adverse effects to society and the

2-1 environment resulting from unregulated surface mining operations  
2-2 as defined in this chapter;

2-3 (2) to assure that the rights of surface landowners  
2-4 and other persons with a legal interest in the land or appurtenances  
2-5 to the land are protected from unregulated surface mining  
2-6 operations;

2-7 (3) to assure that surface mining operations are not  
2-8 conducted where reclamation as required by this chapter is not  
2-9 possible;

2-10 (4) to assure that exploration and surface mining  
2-11 operations are conducted in a manner that will prevent unreasonable  
2-12 degradation of land and water resources; and

2-13 (5) to assure that reclamation of all explored land  
2-14 and surface-mined land is accomplished as contemporaneously as  
2-15 practicable with the exploration or surface mining, recognizing  
2-16 that the exploration for and extraction of minerals by responsible  
2-17 [~~mining~~] operations is an essential and beneficial economic  
2-18 activity.

2-19 SECTION 2. Section 131.004(10), Natural Resources Code, is  
2-20 amended to read as follows:

2-21 (10) "Surface mining permit" or "permit" means the  
2-22 written certification by the commission that the named operator may  
2-23 conduct the surface mining operations described in the  
2-24 certification during the term of the surface mining permit and in  
2-25 the manner established in the certification. These terms do not  
2-26 include:

2-27 (A) a discharge permit issued by the commission  
2-28 pursuant to Subchapter H of this chapter; or

2-29 (B) an exploration permit issued by the  
2-30 commission pursuant to Subchapter I of this chapter.

2-31 SECTION 3. Sections 131.021, 131.022, 131.034, 131.048, and  
2-32 131.301, Natural Resources Code, are amended to read as follows:

2-33 Sec. 131.021. GENERAL AUTHORITY OF COMMISSION. In seeking  
2-34 to accomplish the purposes of this chapter, the commission shall  
2-35 have the authority:

2-36 (1) to adopt and amend rules pertaining to  
2-37 exploration, surface mining, and reclamation operations consistent  
2-38 with the general intent and purposes of this chapter;

2-39 (2) to issue permits pursuant to the provisions of  
2-40 this chapter;

2-41 (3) to conduct hearings pursuant to the provisions of  
2-42 this chapter;

2-43 (4) to issue orders requiring an operator to take  
2-44 actions that are necessary to comply with this chapter and with  
2-45 rules adopted under this chapter;

2-46 (5) to issue orders modifying previous orders;

2-47 (6) to issue a final order revoking the permit of an  
2-48 operator who has failed to comply with an order of the commission to  
2-49 take action required by this chapter or rules adopted under this  
2-50 chapter;

2-51 (7) to order the immediate cessation of an ongoing  
2-52 exploration or surface mining operation if the commission finds  
2-53 that the operation creates an imminent danger to the health or  
2-54 safety of the public, or is causing or can reasonably be expected to  
2-55 cause significant imminent environmental harm to land, air, or  
2-56 water resources, and to take other action or make changes in a  
2-57 permit that are reasonably necessary to avoid or alleviate these  
2-58 conditions;

2-59 (8) to hire employees, adopt standards for employment  
2-60 of these persons, and hire and authorize the hiring of outside  
2-61 contractors to assist in carrying out the requirements of this  
2-62 chapter;

2-63 (9) to enter on and inspect, in person or by its  
2-64 agents, an exploration or a surface mining operation that is  
2-65 subject to the provisions of this chapter to assure compliance with  
2-66 the terms of this chapter;

2-67 (10) to conduct, encourage, request, and participate  
2-68 in studies, surveys, investigations, research, experiments,  
2-69 training, and demonstrations by contract, grant, or otherwise;

3-1 (11) to prepare reports and to require persons who  
 3-2 hold exploration or surface mining permits [~~permittees~~] to prepare  
 3-3 reports;

3-4 (12) to collect and disseminate to the public  
 3-5 information considered reasonable and necessary for the proper  
 3-6 enforcement of this chapter;

3-7 (13) to accept, receive, and administer grants, gifts,  
 3-8 loans, or other funds made available from any source for the  
 3-9 purposes of this chapter;

3-10 (14) to enter into contracts with state boards and  
 3-11 agencies that have pertinent expertise to obtain professional and  
 3-12 technical services necessary to carry out the provisions of this  
 3-13 chapter; and

3-14 (15) to perform other duties and acts required by and  
 3-15 provided for in this chapter.

3-16 Sec. 131.022. JURISDICTION OF COMMISSION. (a) The  
 3-17 commission is the mining and reclamation authority for the State of  
 3-18 Texas and has exclusive jurisdiction for establishing reclamation  
 3-19 requirements for mining and exploration operations in this state,  
 3-20 except for in situ recovery processes.

3-21 (b) Except as provided by Section 131.354, the commission  
 3-22 has exclusive jurisdiction and is solely responsible for the  
 3-23 regulation of all exploration activities.

3-24 Sec. 131.034. EXPLORATION ACTIVITIES. The commission shall  
 3-25 promulgate rules governing uranium exploration activity [~~in the~~  
 3-26 ~~manner provided in Sections 131.026 through 131.031 of this code~~  
 3-27 ~~for the conduct of exploration activities~~].

3-28 Sec. 131.048. CONFIDENTIALITY. Information submitted to  
 3-29 the commission concerning mineral deposits, including test  
 3-30 borings, core samplings, geophysical logs, or trade secrets or  
 3-31 privileged commercial or financial information relating to the  
 3-32 competitive rights of the applicant for an exploration permit or  
 3-33 surface mining permit and specifically identified as confidential  
 3-34 by the applicant, if not essential for public review as determined  
 3-35 by the commission, shall not be disclosed by any member, agent, or  
 3-36 employee of the commission.

3-37 Sec. 131.301. DISCHARGE RULES, ORDERS, AND PERMITS. To  
 3-38 prevent the pollution of surface and subsurface water in the state,  
 3-39 the commission has the exclusive authority to [~~shall~~] adopt rules  
 3-40 and may issue orders and permits relating to the discharge or runoff  
 3-41 of waste or any other substance or material from any permitted  
 3-42 uranium exploration activity. Notwithstanding any provision of any  
 3-43 other section of this chapter, a rule adopted, order issued, or  
 3-44 permit issued [~~issuable~~] by the commission under this subchapter  
 3-45 shall be [~~issued,~~] administered[~~7~~] and enforced solely in the  
 3-46 manner provided by [~~in~~] this subchapter by the [~~7, in such~~] rule,  
 3-47 order, or permit, or by [~~in~~] Chapter 2001, Government Code.

3-48 SECTION 4. Section 131.261(a), Natural Resources Code, is  
 3-49 amended to read as follows:

3-50 (a) On the basis of any inspection, if the commission or its  
 3-51 authorized representative or agent determines that a condition or  
 3-52 practice exists or that a permittee is in violation of a requirement  
 3-53 of this chapter or a permit condition required by this chapter, and  
 3-54 that this condition, practice, or violation also creates an  
 3-55 imminent danger to the health or safety of the public or is causing  
 3-56 or can reasonably be expected to cause significant imminent harm to  
 3-57 land, air, or water resources, a member of the commission shall  
 3-58 immediately order a cessation of exploration or surface mining  
 3-59 operations on the portion of the area relevant to the condition,  
 3-60 practice, or violation.

3-61 SECTION 5. Sections 131.262(a) and (b), Natural Resources  
 3-62 Code, are amended to read as follows:

3-63 (a) On the basis of an inspection, if the commission or its  
 3-64 authorized representative or agent determines that a permittee is  
 3-65 in violation of a requirement of this chapter or a permit condition  
 3-66 required by this chapter, but the violation does not create an  
 3-67 imminent danger to the health or safety of the public or is not  
 3-68 causing or reasonably expected to cause significant imminent harm  
 3-69 to land, air, or water resources, the commission shall issue a

4-1 notice to the permittee or the permittee's [his] agent setting a  
 4-2 reasonable time not to exceed 30 days for the abatement of the  
 4-3 violation. The commission may authorize an extension of the period  
 4-4 of time for the abatement of the violation, for good cause as  
 4-5 determined by a written finding by the commission.

4-6 (b) If, on expiration of the period of time as originally  
 4-7 set or subsequently extended, [~~for good cause shown, and on written~~  
 4-8 ~~finding of the commission,~~] the commission finds that the violation  
 4-9 has not been abated, it may order a cessation of exploration or  
 4-10 surface mining operations on the portion of this area relevant to  
 4-11 the violation. However, if requested by the operator, a hearing  
 4-12 must be held prior to a commission finding or order.

4-13 SECTION 6. Chapter 131, Natural Resources Code, is amended  
 4-14 by adding Subchapter I to read as follows:

4-15 SUBCHAPTER I. PERMITS FOR EXPLORATION ACTIVITIES

4-16 Sec. 131.351. APPLICABILITY OF SUBCHAPTER. (a) If this  
 4-17 subchapter conflicts with other law, this subchapter controls.

4-18 (b) Sections 131.037, 131.038, 131.039, 131.040, 131.041,  
 4-19 131.042, 131.043, 131.044, and 131.045 do not apply to exploration  
 4-20 activity subject to an exploration permit issued under this  
 4-21 subchapter.

4-22 Sec. 131.352. EXPLORATION PERMITS. (a) A person may not  
 4-23 conduct exploration activity unless the person holds an exploration  
 4-24 permit issued by the commission.

4-25 (b) An exploration permit issued by the commission may  
 4-26 contain provisions and conditions necessary to implement the  
 4-27 policies of this subchapter. The commission shall adopt rules  
 4-28 governing the amendment, revocation, transfer, or suspension of an  
 4-29 exploration permit.

4-30 (c) A person may conduct exploration activities under an  
 4-31 exploration permit issued by the commission until the term expires  
 4-32 or may apply for a new exploration permit issued under this  
 4-33 subchapter if:

4-34 (1) the person has been exploring under an exploration  
 4-35 permit issued before June 1, 2007; or

4-36 (2) the person has a pending application on file  
 4-37 before June 1, 2007, and is issued the exploration permit after that  
 4-38 date.

4-39 (d) On expiration of an exploration permit held by a person  
 4-40 described by Subsection (c)(1) or (2), the person may apply for an  
 4-41 exploration permit renewal under this subchapter.

4-42 Sec. 131.353. SCOPE OF EXPLORATION PERMIT. (a) An  
 4-43 exploration permit may govern all activities associated with  
 4-44 determining the location, quantity, or quality of uranium deposits.

4-45 (b) An exploration permit must contain provisions to  
 4-46 govern:

4-47 (1) locating, drilling, plugging, and abandoning  
 4-48 exploration holes;

4-49 (2) casing exploration holes for use in the  
 4-50 exploration process;

4-51 (3) using cased exploration wells for rig supply  
 4-52 purposes; and

4-53 (4) plugging and abandoning cased exploration wells.

4-54 (c) Except as provided by Section 131.354, a cased  
 4-55 exploration well subject to an exploration permit issued under this  
 4-56 subchapter is exempt from regulation by another agency,  
 4-57 governmental entity, or political subdivision if the well is:

4-58 (1) used for exploration; or

4-59 (2) used for rig supply purposes.

4-60 Sec. 131.354. COMMISSION JURISDICTION. (a) The commission  
 4-61 has jurisdiction over uranium exploration holes and cased  
 4-62 exploration wells completed under an exploration permit issued  
 4-63 under this subchapter until:

4-64 (1) exploration holes and cased exploration wells are  
 4-65 properly plugged and abandoned; or

4-66 (2) cased exploration wells are:

4-67 (A) registered with the Texas Commission on  
 4-68 Environmental Quality; or

4-69 (B) included in an area permit issued by the

5-1 Texas Commission on Environmental Quality under Chapter 27, Water  
 5-2 Code.

5-3 (b) A well described by Section 131.353(c) is subject to a  
 5-4 groundwater conservation district's rules regarding registration  
 5-5 of wells if:

5-6 (1) the well is located in the groundwater  
 5-7 conservation district and the well is used for monitoring purposes;  
 5-8 and

5-9 (2) the cumulative amount of water produced from the  
 5-10 wells located inside the area subject to the exploration permit and  
 5-11 completed under the exploration permit issued under this subchapter  
 5-12 exceeds 40 acre feet in one year.

5-13 (c) A well described by Section 131.353(c) is subject to a  
 5-14 groundwater conservation district's rules for registration,  
 5-15 production, and reporting if:

5-16 (1) the well is located in the groundwater  
 5-17 conservation district and the well is used for rig supply purposes;  
 5-18 and

5-19 (2) the cumulative amount of water produced from the  
 5-20 wells located inside the area subject to the exploration permit and  
 5-21 completed under the exploration permit issued under this subchapter  
 5-22 exceeds 40 acre feet in one year.

5-23 (d) Each month, the holder of an exploration permit  
 5-24 governing a well described by Section 131.353(c) and located in a  
 5-25 groundwater conservation district shall report to the district the  
 5-26 total amount of water produced from each well described by Section  
 5-27 131.353(c) and located inside the area subject to the exploration  
 5-28 permit.

5-29 (e) Each groundwater conservation district shall use the  
 5-30 number of acres described in the exploration permit in determining  
 5-31 any district production requirements.

5-32 Sec. 131.355. APPLICATION FEES. (a) The commission may  
 5-33 impose an application fee to recover the costs of administering  
 5-34 this subchapter.

5-35 (b) Section 131.231 does not apply to a fee imposed under  
 5-36 this subchapter.

5-37 Sec. 131.356. NOTIFICATION BY COMMISSION. (a) At the time  
 5-38 the commission receives an application for an exploration permit,  
 5-39 the commission shall provide written notice of the exploration  
 5-40 permit application to:

5-41 (1) each groundwater conservation district in the area  
 5-42 in which the permitted exploration will occur;

5-43 (2) the mayor and health authority of each  
 5-44 municipality in the area in which the permitted exploration will  
 5-45 occur;

5-46 (3) the county judge and health authority of each  
 5-47 county in the area in which the permitted exploration will occur;  
 5-48 and

5-49 (4) each member of the legislature who represents the  
 5-50 area in which the proposed exploration will occur.

5-51 (b) At the time the commission issues an exploration permit  
 5-52 under this subchapter, the commission shall provide written notice  
 5-53 of the exploration permit to:

5-54 (1) each groundwater conservation district in the area  
 5-55 in which the permitted exploration will occur;

5-56 (2) the mayor and health authority of each  
 5-57 municipality in the area in which the permitted exploration will  
 5-58 occur;

5-59 (3) the county judge and health authority of each  
 5-60 county in the area in which the permitted exploration will occur;  
 5-61 and

5-62 (4) each member of the legislature who represents the  
 5-63 area in which the proposed exploration will occur.

5-64 Sec. 131.357. GEOLOGIC, HYDROLOGIC, WATER QUALITY, AND WELL  
 5-65 INFORMATION. (a) A person issued an exploration permit under this  
 5-66 subchapter that authorizes exploration in a groundwater  
 5-67 conservation district shall provide to the district:

5-68 (1) pre-exploration water quality information from:

5-69 (A) each existing well located in the district

6-1 that is tested by the person before exploration; and

6-2 (B) the following wells, as applicable:

6-3 (i) each existing well located inside the  
6-4 area subject to the exploration permit, if there are fewer than 10  
6-5 existing wells located inside that area; or

6-6 (ii) 10 existing wells that are distributed  
6-7 as evenly as possible throughout the area subject to the  
6-8 exploration permit, if there are at least 10 existing wells located  
6-9 inside that area;

6-10 (2) pre-mining water quality information from:

6-11 (A) each existing well in the jurisdiction of the  
6-12 groundwater conservation district that the person tests during  
6-13 exploration; and

6-14 (B) cased exploration wells completed under the  
6-15 exploration permit issued under this subchapter; and

6-16 (3) well logs that do not contain confidential  
6-17 information as described by Section 131.048.

6-18 (b) A person may take not more than 90 days after the person  
6-19 receives the final information to perform standard quality control  
6-20 and quality assurance procedures before submitting the information  
6-21 as required by Subsection (a).

6-22 (c) If the commission issues to a person an exploration  
6-23 permit under this subchapter that governs wells described by  
6-24 Section 131.353(c) that are located inside a groundwater  
6-25 conservation district, the person shall provide to the district:

6-26 (1) the person's name, address, and telephone number;  
6-27 and

6-28 (2) the following information with regard to the wells  
6-29 described by Section 131.353(c):

6-30 (A) well completion information for each well in  
6-31 the district;

6-32 (B) the location of each well in the district,  
6-33 including a legal description and the acreage of the property where  
6-34 the well is located;

6-35 (C) verification that each well will be used for  
6-36 an industrial purpose; and

6-37 (D) the type and capacity of the pump used in each  
6-38 well.

6-39 SECTION 7. This Act takes effect September 1, 2007.

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