

By: Gonzalez Toureilles

H.B. No. 3838

A BILL TO BE ENTITLED

AN ACT

relating to regulation of injection wells used for in situ uranium mining by the Texas Commission on Environmental Quality.

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

SECTION 1. Section 27.002, Water Code, is amended by amending Subdivisions (1) and (2) and adding Subdivisions (16), (17), and (18) to read as follows:

(1) "Commission" means the Texas Commission on Environmental Quality [~~Natural Resource Conservation Commission~~].

(2) "Executive director" means the executive director of the commission [~~Texas Natural Resource Conservation Commission~~].

(16) "Production well" means a well used to recover uranium through in situ solution recovery, including an injection well used to recover uranium.

(17) "Monitoring well" means a well that is used to measure or monitor the content, quantity, or movement of subsurface fluids.

(18) "Area permit" means a permit that authorizes production and monitoring wells used in operation and restoration associated with in situ recovery of uranium.

SECTION 2. Subchapter B, Chapter 27, Water Code, is amended by adding Sections 27.023 and 27.024 to read as follows:

Sec. 27.023. JURISDICTION OVER IN SITU URANIUM APPLICATION

1 DEVELOPMENT AND OPERATIONS. (a) The commission has exclusive
2 jurisdiction over and shall regulate:

3 (1) wells used during the development of an area
4 subject to a permit to obtain required water quality information
5 before mining; and

6 (2) any associated monitoring wells.

7 (b) The commission by rule shall adopt construction and
8 spacing requirements for associated monitoring wells and wells used
9 to develop required premining water quality information.

10 (c) The commission by rule shall require a well described by
11 Subsection (a) to be registered with the commission. A well
12 described by Subsection (a) is not subject to the commission's
13 permitting, notice, and hearing requirements.

14 (d) If a well described by Subsection (a) is included in an
15 area permit issued by the commission:

16 (1) the registration status of the well ceases; and

17 (2) the well is subject to all rules applicable to the
18 area permit, including notice and hearing requirements.

19 Sec. 27.024. SHARING OF GEOLOGIC, HYDROLOGIC, AND WATER
20 QUALITY DATA. (a) A person developing applications for an area
21 permit inside a groundwater conservation district shall provide to
22 the district:

23 (1) information regarding wells encountered that are
24 not recorded in the public record;

25 (2) a map showing the locations of wells that are
26 recorded in the public record;

27 (3) premining water quality information collected

1 from wells described by Section 27.023(a); and

2 (4) a record of strata as described by Section 27.053,
3 except confidential information described by Section 131.048,
4 Natural Resources Code.

5 (b) A person may compile and analyze information described
6 by Subsection (a) for a reasonable time before the person submits
7 the information to the groundwater conservation district.

8 SECTION 3. Sections 27.051(a) and (d), Water Code, are
9 amended to read as follows:

10 (a) The commission may grant an application in whole or part
11 and may issue the permit if it finds:

12 (1) that the use or installation of the injection or
13 production well is in the public interest;

14 (2) that no existing rights, including, but not
15 limited to, mineral rights, will be impaired;

16 (3) that, with proper safeguards, both ground and
17 surface fresh water can be adequately protected from pollution;

18 (4) that the applicant has made a satisfactory showing
19 of financial responsibility if required by Section 27.073 of this
20 code;

21 (5) that the applicant has provided for the proper
22 operation of the proposed hazardous waste injection well,
23 nonhazardous waste disposal well, or production well;

24 (6) that the applicant for a hazardous waste injection
25 well not located in an area of industrial land use has made a
26 reasonable effort to ensure that the burden, if any, imposed by the
27 proposed hazardous waste injection well on local law enforcement,

1 emergency medical or fire-fighting personnel, or public roadways,
2 will be reasonably minimized or mitigated; and

3 (7) that the applicant owns or has made a good faith
4 claim to, or has the consent of the owner to utilize, or has an
5 option to acquire, or has the authority to acquire through eminent
6 domain, the property or portions of the property where the
7 hazardous waste injection well, nonhazardous waste disposal well,
8 or production well will be constructed.

9 (d) The commission, in determining if the use or
10 installation of an injection well or production well is in the
11 public interest under Subsection (a)(1), shall consider, but shall
12 not be limited to the consideration of:

13 (1) compliance history of the applicant and related
14 entities under the method for evaluating compliance history
15 developed by the commission under Section 5.754 and in accordance
16 with the provisions of Subsection (e);

17 (2) whether there is a practical, economic, and
18 feasible alternative to an injection well reasonably available;
19 and

20 (3) if the injection well will be used for the disposal
21 of hazardous waste, whether the applicant will maintain sufficient
22 public liability insurance for bodily injury and property damage to
23 third parties that is caused by sudden and non-sudden accidents or
24 will otherwise demonstrate financial responsibility in a manner
25 adopted by the commission in lieu of public liability insurance. A
26 liability insurance policy which satisfies the policy limits
27 required by the hazardous waste management regulations of the

1 commission for the applicant's proposed pre-injection facilities
2 shall be deemed "sufficient" under this subdivision if the policy:

3 (A) covers the injection well; and

4 (B) is issued by a company that is authorized to
5 do business and to write that kind of insurance in this state and is
6 solvent and not currently under supervision or in conservatorship
7 or receivership in this state or any other state.

8 SECTION 4. Section 27.051(e), Water Code, as amended by
9 Chapters 347, 965, and 1161, Acts of the 77th Legislature, Regular
10 Session, 2001, is reenacted and amended to read as follows:

11 (e) Consistent with Sections 5.753 and 5.754 and rules
12 adopted and procedures developed under those sections, the
13 commission by rule shall establish a procedure for the preparation
14 of comprehensive summaries of the applicant's history of compliance
15 and noncompliance with rules adopted or orders or permits issued by
16 the commission under this chapter, for any injection well or
17 production well for which a permit has been issued under this
18 chapter, including the compliance history of any corporation or
19 business entity managed, owned, or otherwise closely related to the
20 applicant. A compliance summary must include as evidence of
21 compliance information regarding the applicant's implementation of
22 an environmental management system at the facility for which an
23 authorization is sought. The compliance summaries shall be made
24 available to the applicant and any interested person after the
25 commission has completed its technical review of the permit
26 application and prior to the promulgation of the public notice
27 relating to the issuance of the permit. Evidence of compliance or

1 noncompliance by an applicant for a nonhazardous waste disposal
2 well permit, a production well permit, or for an injection well
3 permit for the disposal of hazardous waste, with environmental
4 statutes and the rules adopted or orders or permits issued by the
5 commission under this chapter may be offered by any party at a
6 hearing on the applicant's application and admitted into evidence
7 subject to applicable rules of evidence for the disposal of
8 hazardous waste. In accordance with this subsection and Sections
9 5.753 and 5.754 and rules adopted and procedures developed under
10 those sections, evidence of the compliance history of an applicant
11 for an injection well or production well permit may be offered by
12 the executive director at a hearing on the application and admitted
13 into evidence subject to the rules of evidence. All evidence
14 admitted, including compliance history, shall be considered by the
15 commission in determining whether to issue, amend, extend or renew
16 a permit. If the commission concludes that the applicant's
17 compliance history is unacceptable, the commission shall deny the
18 permit. In this subsection, "environmental management system" has
19 the meaning assigned by Section 5.127.

20 SECTION 5. Section 27.051(h), Water Code, as added by
21 Chapter 965, Acts of the 77th Legislature, Regular Session, 2001,
22 is amended to read as follows:

23 (h) In determining whether the use or installation of an
24 injection well or production well is in the public interest under
25 Subsection (a)(1), the commission shall consider the compliance
26 history of the applicant in accordance with Subsection (e) and
27 Sections 5.753 and 5.754 and rules adopted and procedures developed

1 under those sections.

2 SECTION 6. Section 27.051(h), Water Code, as added by
3 Chapter 966, Acts of the 77th Legislature, Regular Session, 2001,
4 is redesignated as Subsection (i) and amended to read as follows:

5 (i) [~~(h)~~] The commission may not authorize by rule or permit
6 an injection well or production well that transects or terminates
7 in the Edwards Aquifer. The commission by rule may authorize
8 injection of groundwater withdrawn from the Edwards Aquifer, or
9 injections of storm water, flood water, or groundwater through
10 improved sinkholes or caves located in karst topographic areas.
11 For purposes of this subsection, "Edwards Aquifer" has the meaning
12 assigned by Section 26.046(a).

13 SECTION 7. Section 27.053, Water Code, is amended to read as
14 follows:

15 Sec. 27.053. RECORD OF STRATA. The commission or railroad
16 commission may require a person receiving a permit or authorization
17 by rule under this chapter to keep and furnish a complete and
18 accurate record of the depth, thickness, and character of the
19 different strata penetrated in drilling the injection well or
20 production well.

21 SECTION 8. Section 27.054, Water Code, is amended to read as
22 follows:

23 Sec. 27.054. ELECTRIC OR DRILLING LOG. If an existing well
24 is to be converted to an injection well or production well, the
25 commission or railroad commission may require the applicant to
26 furnish an electric log or a drilling log of the existing well.

27 SECTION 9. Section 27.071, Water Code, is amended to read as

1 follows:

2 Sec. 27.071. POWER TO ENTER PROPERTY. Members of the
3 commission and the railroad commission and employees of the
4 commission and the railroad commission may enter public or private
5 property to inspect and investigate conditions relating to
6 injection well, ~~or~~ disposal well, or production well activities
7 within their respective jurisdictions or to monitor compliance with
8 a rule, permit, or other order of the commission or railroad
9 commission. Members or employees acting under the authority of
10 this section who enter an establishment on public or private
11 property shall observe the establishment's safety, internal
12 security, and fire protection rules.

13 SECTION 10. Section 27.072, Water Code, is amended to read
14 as follows:

15 Sec. 27.072. POWER TO EXAMINE RECORDS. Members of the
16 commission and the railroad commission and employees of the
17 commission and railroad commission may examine and copy those
18 records or memoranda of a business they are investigating as
19 provided by Section 27.071 of this code that relate to the operation
20 of an injection well, ~~or~~ disposal well, or production well, or any
21 other records required to be maintained by law.

22 SECTION 11. Section 27.073(a), Water Code, is amended to
23 read as follows:

24 (a) A person to whom an injection well or production well
25 permit is issued may be required by the commission or railroad
26 commission to maintain a performance bond or other form of
27 financial security to ensure that an abandoned well is properly

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2 SECTION 12. This Act takes effect September 1, 2007.