

By: Duncan, Seliger

S.B. No. 1037

A BILL TO BE ENTITLED

AN ACT

relating to the prevention of surface water or groundwater pollution from certain evaporation pits.

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

SECTION 1. Subchapter D, Chapter 26, Water Code, is amended by adding Section 26.132 to read as follows:

Sec. 26.132. EVAPORATION PITS REQUIREMENTS. (a) In this section, "evaporation pit" means a pit into which water is placed and retained for the purpose of collecting, after the water's evaporation, residual minerals, salts, or other substances present in the water.

(b) This section applies only to evaporation pits:

(1) operated for the commercial production of minerals, salts, or other substances that naturally occur in groundwater; and

(2) that are not regulated by the Railroad Commission of Texas.

(c) The owner or operator of an evaporation pit shall ensure that the pit is lined as provided by this subsection and rules adopted under this subsection. An evaporation pit must have a liner designed by an engineer who holds a license issued under Chapter 1001, Occupations Code, to minimize surface water and groundwater pollution risks. The liner must meet standards at least as stringent as those adopted by the commission for a Type I landfill

1 managing Class I industrial solid waste.

2 (d) An owner or operator may not place or permit the
3 placement of groundwater into an evaporation pit if the pit does not
4 comply with this section or with rules adopted or orders issued
5 under this section.

6 (e) The owner or operator of an evaporation pit shall ensure
7 that:

8 (1) storm water runoff is diverted away from or
9 otherwise prevented from entering the evaporation pit; and

10 (2) all berms and other structures used to manage
11 storm water are properly constructed and maintained in a manner to
12 prevent the threat of water pollution from the evaporation pit.

13 (f) The owner or operator of an evaporation pit may not by
14 act or omission cause:

15 (1) water pollution from the evaporation pit; or

16 (2) a discharge from the evaporation pit into or
17 adjacent to water in the state.

18 (g) The owner or operator of an evaporation pit shall ensure
19 that the pit is located so that a failure of the pit or a discharge
20 from the pit does not result in an adverse effect on water in the
21 state.

22 (h) The owner or operator of an evaporation pit shall
23 provide the commission with proof that the owner or operator has
24 financial assurance adequate to ensure satisfactory closure of the
25 pit.

26 (i) The owner or operator of an evaporation pit shall
27 provide the commission with proof that the owner or operator of the

1 pit has a third party pollution liability insurance policy that:

2 (1) is issued by an insurance company authorized to do
3 business in this state that has a rating by the A. M. Best Company of
4 "A-" or better;

5 (2) covers bodily injury and property damage to third
6 parties caused by accidental sudden or nonsudden occurrences
7 arising from operations at the pit; and

8 (3) is in an amount of not less than \$3 million.

9 (j) The commission shall adopt rules as necessary to protect
10 surface water and groundwater quality from the risks presented by
11 commercial evaporation pits and as necessary to administer and
12 enforce this section, including rules:

13 (1) governing the location, design, construction,
14 capacity, operations, maintenance, and closure of evaporation
15 pits;

16 (2) ensuring that the owner or operator of an
17 evaporation pit has adequate financial assurance; and

18 (3) requiring an owner or operator of an evaporation
19 pit to obtain a permit from the commission for the operation of the
20 pit.

21 (k) The commission shall impose against the owners of
22 evaporation pits fees in amounts necessary to recover the costs of
23 administering this section.

24 SECTION 2. (a) Section 26.132, Water Code, as added by
25 this Act, applies to the owner or operator of an evaporation pit
26 only after the effective date of rules adopted by the Texas
27 Commission on Environmental Quality under that section.

1 (b) Section 26.132, Water Code, as added by this Act,
2 applies to an evaporation pit in operation on or after the effective
3 date of the rules adopted by the Texas Commission on Environmental
4 Quality under that section regardless of the date the pit entered
5 operation.

6 (c) The Texas Commission on Environmental Quality shall
7 adopt rules under Section 26.132, Water Code, as added by this Act,
8 as soon as practicable after the effective date of this Act.

9 SECTION 3. This Act takes effect September 1, 2007.