

By: Duncan

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 groundwater 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

1 stringent as those adopted by the commission for a Type I landfill
2 managing industrial solid waste.

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

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

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

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

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

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

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

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

22 (h) The operator of an evaporation pit shall provide the
23 commission with proof that the operator has a commercial liability
24 insurance policy that:

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

1 (2) designates the commission as an additional
2 insured; and

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

4 (i) The operator of an evaporation pit shall provide the
5 commission with proof that the owner or operator of the pit has an
6 environmental impairment insurance policy that:

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

10 (2) designates the commission as an additional
11 insured; and

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

13 (j) The commission shall adopt rules as necessary to protect
14 surface water and groundwater quality from the risks presented by
15 commercial groundwater evaporation pits and as necessary to
16 administer and enforce this section. The rules may include a rule:

17 (1) governing the location, design, construction,
18 capacity, operations, maintenance, and closure of evaporation
19 pits;

20 (2) ensuring that the owner or operator of an
21 evaporation pit is financially responsible for the operation and
22 closure of the pit; or

23 (3) requiring an owner or operator of an evaporation
24 pit to obtain a permit for the operation of the pit.

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

1 SECTION 2. (a) Except as provided by Subsection (b) of this
2 section, this Act takes effect September 1, 2007.

3 (b) Sections 26.132(h) and (i), Water Code, as added by this
4 Act, take effect January 1, 2008.