

1-1 By: Duncan, Seliger S.B. No. 1037
1-2 (In the Senate - Filed March 1, 2007; March 14, 2007, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 18, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 18, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1037 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the prevention of surface water or groundwater
1-11 pollution from certain evaporation pits.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 26, Water Code, is amended
1-14 by adding Section 26.132 to read as follows:

1-15 Sec. 26.132. EVAPORATION PITS REQUIREMENTS. (a) In this
1-16 section, "evaporation pit" means a pit into which water is placed
1-17 and retained for the purpose of collecting, after the water's
1-18 evaporation, residual minerals, salts, or other substances present
1-19 in the water.

1-20 (b) This section applies only to evaporation pits:

1-21 (1) operated for the commercial production of
1-22 minerals, salts, or other substances that naturally occur in
1-23 groundwater; and

1-24 (2) that are not regulated by the Railroad Commission
1-25 of Texas.

1-26 (c) The owner or operator of an evaporation pit shall ensure
1-27 that the pit is lined as provided by this subsection and rules
1-28 adopted under this subsection. An evaporation pit must have a liner
1-29 designed by an engineer who holds a license issued under Chapter
1-30 1001, Occupations Code, to minimize surface water and groundwater
1-31 pollution risks. The liner must meet standards at least as
1-32 stringent as those adopted by the commission for a Type I landfill
1-33 managing Class I industrial solid waste.

1-34 (d) An owner or operator may not place or permit the
1-35 placement of groundwater into an evaporation pit if the pit does not
1-36 comply with this section or with rules adopted or orders issued
1-37 under this section.

1-38 (e) The owner or operator of an evaporation pit shall ensure
1-39 that:

1-40 (1) storm water runoff is diverted away from or
1-41 otherwise prevented from entering the evaporation pit; and

1-42 (2) all berms and other structures used to manage
1-43 storm water are properly constructed and maintained in a manner to
1-44 prevent the threat of water pollution from the evaporation pit.

1-45 (f) The owner or operator of an evaporation pit may not by
1-46 act or omission cause:

1-47 (1) water pollution from the evaporation pit; or

1-48 (2) a discharge from the evaporation pit into or
1-49 adjacent to water in the state.

1-50 (g) The owner or operator of an evaporation pit shall ensure
1-51 that the pit is located so that a failure of the pit or a discharge
1-52 from the pit does not result in an adverse effect on water in the
1-53 state.

1-54 (h) The owner or operator of an evaporation pit shall
1-55 provide the commission with proof that the owner or operator has
1-56 financial assurance adequate to ensure satisfactory closure of the
1-57 pit.

1-58 (i) The owner or operator of an evaporation pit shall
1-59 provide the commission with proof that the owner or operator of the
1-60 pit has a third party pollution liability insurance policy that:

1-61 (1) is issued by an insurance company authorized to do
1-62 business in this state that has a rating by the A. M. Best Company of
1-63 "A-" or better;

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

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

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

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

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

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

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

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

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

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

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

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