

By: Seliger

S.B. No. 1383

A BILL TO BE ENTITLED

AN ACT

relating to district hearings and citizen suits for illegally drilling or operating a water well.

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

SECTION 1. Section 36.119, Water Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (g) and (h) to read as follows:

(a) Drilling or operating a well or wells without a required permit or producing groundwater in violation of a district rule adopted under Section 36.116(a)(2) ~~[operating a well at a higher rate of production than the rate approved for the well]~~ is declared to be illegal, wasteful per se, and a nuisance.

(b) Except as provided by this section, a landowner or other [A] person who has a right to produce groundwater from land that is [an estate in land] adjacent to the land on which a [the] well or wells are drilled or operated without a required permit or permits or from which groundwater is produced in violation of a district rule adopted under Section 36.116(a)(2) [is located], or who owns or otherwise has a right to produce groundwater from land [a part] that lies within one-half mile of the well or wells, may sue the owner of the well or wells in a court of competent jurisdiction to restrain or enjoin the illegal drilling, [or] operation, or both. The suit may be brought with or without the joinder of the district.

(c) Except as provided by this section, the [The] aggrieved

1 party may also sue the owner of the well or wells for damages for
2 injuries suffered by reason of the illegal operation or production
3 and for other relief to which the party [~~they~~] may be entitled. In a
4 suit for damages against the owner of the well or wells, the
5 existence [~~or operation~~] of a well or wells drilled without a
6 required permit or the operation of a well or wells in violation of
7 a district rule adopted under Section 36.116(a)(2) [~~in violation of~~
8 ~~the rules of the district~~] is prima facie evidence of illegal
9 drainage.

10 (g) Before filing a suit under Subsection (b) or (c), an
11 aggrieved party must file a written complaint with the district
12 having jurisdiction over the well or wells drilled or operated
13 without a required permit or in violation of a district rule. The
14 district shall investigate the complaint and, after notice and
15 hearing and not later than the 90th day after the date the written
16 complaint was received by the district, the district shall
17 determine, based on the evidence presented at the hearing, whether
18 a district rule has been violated. The aggrieved party may only
19 file a suit under this section on or after the 91st day after the
20 date the written complaint was received by the district.

21 (h) Notwithstanding Subsection (g), an aggrieved party
22 under Subsection (b) may sue a well owner or well driller in a court
23 of competent jurisdiction to restrain or enjoin the drilling or
24 completion of an illegal well after filing the written complaint
25 with the district under Subsection (g) and without the need to wait
26 for a hearing on the matter.

27 SECTION 2. Section 36.119, Water Code, as amended by this

1 Act, applies only to a violation occurring on or after the effective
2 date of this Act. Any violation occurring before the effective date
3 of this Act is governed by the law in effect on the date the
4 violation occurred, and that law is continued in effect for that
5 purpose.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2007.