

1-1 By: Seliger S.B. No. 1383
1-2 (In the Senate - Filed March 7, 2007; March 20, 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. 1383 By: Eltife

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

1-10 relating to district hearings and citizen suits for illegally
1-11 drilling or operating a water well.

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

1-13 SECTION 1. Section 36.119, Water Code, is amended by
1-14 amending Subsections (a), (b), and (c) and adding Subsections (g)
1-15 and (h) to read as follows:

1-16 (a) Drilling or operating a well or wells without a required
1-17 permit or producing groundwater in violation of a district rule
1-18 adopted under Section 36.116(a)(2) [operating a well at a higher
1-19 rate of production than the rate approved for the well] is declared
1-20 to be illegal, wasteful per se, and a nuisance.

1-21 (b) Except as provided by this section, a landowner or other
1-22 [A] person who has a right to produce groundwater from land that is
1-23 [an estate in land] adjacent to the land on which a [the] well or
1-24 wells are drilled or operated without a required permit or permits
1-25 or from which groundwater is produced in violation of a district
1-26 rule adopted under Section 36.116(a)(2) [is located], or who owns
1-27 or otherwise has a right to produce groundwater from land [a part]
1-28 that lies within one-half mile of the well or wells, may sue the
1-29 owner of the well or wells in a court of competent jurisdiction to
1-30 restrain or enjoin the illegal drilling, [or] operation, or both.
1-31 The suit may be brought with or without the joinder of the district.

1-32 (c) Except as provided by this section, the [The] aggrieved
1-33 party may also sue the owner of the well or wells for damages for
1-34 injuries suffered by reason of the illegal operation or production
1-35 and for other relief to which the party [they] may be entitled. In a
1-36 suit for damages against the owner of the well or wells, the
1-37 existence [or operation] of a well or wells drilled without a
1-38 required permit or the operation of a well or wells in violation of
1-39 a district rule adopted under Section 36.116(a)(2) [in violation of
1-40 the rules of the district] is prima facie evidence of illegal
1-41 drainage.

1-42 (g) Before filing a suit under Subsection (b) or (c), an
1-43 aggrieved party must file a written complaint with the district
1-44 having jurisdiction over the well or wells drilled or operated
1-45 without a required permit or in violation of a district rule. The
1-46 district shall investigate the complaint and, after notice and
1-47 hearing and not later than the 90th day after the date the written
1-48 complaint was received by the district, the district shall
1-49 determine, based on the evidence presented at the hearing, whether
1-50 a district rule has been violated. The aggrieved party may only
1-51 file a suit under this section on or after the 91st day after the
1-52 date the written complaint was received by the district.

1-53 (h) Notwithstanding Subsection (g), an aggrieved party
1-54 under Subsection (b) may sue a well owner or well driller in a court
1-55 of competent jurisdiction to restrain or enjoin the drilling or
1-56 completion of an illegal well after filing the written complaint
1-57 with the district under Subsection (g) and without the need to wait
1-58 for a hearing on the matter.

1-59 SECTION 2. Section 36.119, Water Code, as amended by this
1-60 Act, applies only to a violation occurring on or after the effective
1-61 date of this Act. Any violation occurring before the effective date
1-62 of this Act is governed by the law in effect on the date the
1-63 violation occurred, and that law is continued in effect for that

2-1 purpose.

2-2 SECTION 3. This Act takes effect immediately if it receives
2-3 a vote of two-thirds of all the members elected to each house, as
2-4 provided by Section 39, Article III, Texas Constitution. If this
2-5 Act does not receive the vote necessary for immediate effect, this
2-6 Act takes effect September 1, 2007.

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