

By: Duncan, Averitt

S.B. No. 1378

A BILL TO BE ENTITLED

AN ACT

relating to the plugging of inactive oil or gas wells.

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

SECTION 1. Section 89.002, Natural Resources Code, is amended by amending Subdivision (7) and adding Subdivisions (9), (10), and (11) to read as follows:

(7) "Delinquent inactive well" means an inactive ~~[unplugged] well [that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months and]~~ for which, after notice and opportunity for a hearing, the commission has not extended the plugging deadline.

(9) "Cost calculation for plugging an inactive well" means the commission's calculated cost for each foot of well depth based on average actual costs reported by the commission to the Oil-Field Cleanup Fund Advisory Committee for the preceding year for the commission oil and gas division district in which the inactive well is located.

(10) "Inactive well" means an unplugged well that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months.

(11) "Physical termination of electric lines to an inactive well" means disconnecting electric service to an inactive well site at a point on the electric service lines most distant from the production site toward the main supply line in a manner that

1 will not interfere with electrical supply to adjacent production  
2 sites.

3 SECTION 2. Chapter 89, Natural Resources Code, is amended  
4 by adding Subchapter B-1 to read as follows:

5 SUBCHAPTER B-1. PLUGGING OF INACTIVE WELLS

6 Sec. 89.021. PLUGGING OF INACTIVE WELLS REQUIRED. (a)  
7 Except as provided by Section 89.022, on or before the date the  
8 operator is required to renew the operator's organization report  
9 required by Section 91.142, an operator of an inactive well must  
10 plug the well in accordance with statutes and commission rules in  
11 effect at the time of plugging.

12 (b) A person may not become a new operator of an existing  
13 inactive well without first satisfying the requirements of Section  
14 89.022.

15 (c) The commission may not renew or approve the organization  
16 report required by Section 91.142 for an operator that fails to  
17 comply with the requirements of this subchapter.

18 Sec. 89.022. EXTENSION OF DEADLINE FOR PLUGGING INACTIVE  
19 WELL. (a) The commission shall grant an extension of the deadline  
20 for plugging an inactive well if, on or before the date of initial  
21 approval or renewal of the operator's organization report required  
22 by Section 91.142, the operator files with the commission an  
23 application for an extension that includes:

24 (1) an affirmation that complies with Section 89.028;  
25 and

26 (2) one or more of the following:

27 (A) documentation that the operator has plugged,

1 or otherwise brought into compliance with commission rules, a  
2 number of inactive wells such that the number of the operator's  
3 inactive wells on the annual renewal date of the operator's  
4 organization report required by Section 91.142 is equal to or less  
5 than 90 percent of the number of inactive wells operated by the  
6 operator on the preceding date that the operator's organization  
7 report was required to be renewed;

8 (B) an abeyance of plugging report that:

9 (i) is in the form of a certification signed  
10 by a person licensed by the Texas Board of Professional Engineers or  
11 the Texas Board of Professional Geoscientists;

12 (ii) includes:

13 (a) an affirmation by the licensed  
14 person that the well has a reasonably certain expectation of  
15 economic value in excess of the cost of plugging the well for the  
16 duration of the period covered by the report, based on the cost  
17 calculation for plugging an inactive well; and

18 (b) appropriate documentation  
19 demonstrating the basis for the affirmation of the well's future  
20 utility; and

21 (iii) specifies the field and the covered  
22 wells within that field;

23 (C) documentation that the well is part of an  
24 enhanced oil recovery project described by Section 202.052(b), Tax  
25 Code;

26 (D) documentation of the results of a successful  
27 fluid level or hydraulic pressure test of the well conducted in

1 accordance with the commission's rules in effect at the time the  
2 test is conducted;

3 (E) a supplemental bond, letter of credit, or  
4 cash deposit for each well specified in the application that:

5 (i) complies with the requirements of  
6 Chapter 91; and

7 (ii) is of an amount at least equal to the  
8 cost calculation for plugging an inactive well for each well  
9 specified in the application;

10 (F) documentation of escrow funds as prescribed  
11 by commission rule that equal at least 10 percent of the total cost  
12 calculation for plugging an inactive well for each well specified  
13 in the application; or

14 (G) if the operator is a publicly traded entity:

15 (i) a copy of the operator's Financial  
16 Accounting Standards Board Statement No. 143, Accounting for Asset  
17 Retirement Obligations; and

18 (ii) an original, executed Uniform  
19 Commercial Code Form 1 Financing Statement, filed with the  
20 secretary of state, that:

21 (a) names the operator as the "debtor"  
22 and the Railroad Commission of Texas as the "secured creditor"; and

23 (b) specifies the funds covered by the  
24 statement described by Subparagraph (i) in the amount of the cost  
25 calculation for plugging an inactive well for each well specified  
26 in the application.

27 (b) Notwithstanding Subsection (a)(2)(A), an operator may

1 not obtain an extension of the deadline for plugging an inactive  
2 well by complying with that section if the plugging of the well is  
3 otherwise required by commission rules.

4 Sec. 89.023. ABEYANCE OF PLUGGING REPORT. (a) An abeyance  
5 of plugging report filed under Section 89.022(a)(2)(B) is valid for  
6 a period of not more than five years.

7 (b) An abeyance of plugging report may cover more than one  
8 well in a field but may not cover more than one field.

9 (c) An abeyance of plugging report may not be transferred to  
10 a new operator of an existing inactive well. On becoming a new  
11 operator of an existing inactive well, an operator must file a new  
12 abeyance of plugging report or otherwise comply with the  
13 requirements of this subchapter. This subsection does not prohibit  
14 the transfer of an abeyance of plugging report in the event of a  
15 change of name of an operator.

16 (d) An operator who files an abeyance of plugging report  
17 must pay an annual fee of \$100 for each well covered by the report.  
18 A fee collected under this section shall be deposited in the  
19 oil-field cleanup fund.

20 Sec. 89.024. ENHANCED OIL RECOVERY PROJECT. (a) For  
21 purposes of Section 89.022(a)(2)(C), an inactive well is considered  
22 to be part of an enhanced oil recovery project if the well is  
23 associated with the project.

24 (b) Documentation that an inactive well is part of an  
25 enhanced oil recovery project described by Section 202.052(b), Tax  
26 Code, may not be transferred to a new operator of an existing  
27 inactive well. On becoming a new operator of an existing inactive

1 well, an operator must file new documentation that the well is part  
2 of such a project or otherwise comply with the requirements of this  
3 subchapter.

4 Sec. 89.025. MECHANICAL INTEGRITY TEST. (a) Documentation  
5 of the results of a successful fluid level or hydraulic pressure  
6 test filed under Section 89.022(a)(2)(D) is valid for a period of  
7 five years from the date of the test.

8 (b) Documentation of the results of a successful fluid level  
9 or hydraulic pressure test may be transferred to a new operator of  
10 an existing inactive well.

11 Sec. 89.026. SUPPLEMENTAL FINANCIAL ASSURANCE. (a) A  
12 supplemental bond, letter of credit, or cash deposit filed under  
13 Section 89.022(a)(2)(E) is in addition to any other financial  
14 assurance otherwise required of the operator or for the well.

15 (b) A supplemental bond, letter of credit, or cash deposit  
16 may not be transferred to a new operator of an existing inactive  
17 well. On becoming a new operator of an existing inactive well, an  
18 operator must file a new supplemental bond, letter of credit, or  
19 cash deposit or otherwise comply with the requirements of this  
20 subchapter.

21 Sec. 89.027. ESCROW FUNDS. (a) Escrow funds described by  
22 Section 89.022(a)(2)(F) must be deposited with the commission each  
23 time an operator files an application for an extension of the  
24 deadline for plugging an inactive well.

25 (b) Escrow funds deposited with the commission may be  
26 released only with the approval of the commission as prescribed by  
27 commission rule.

1       Sec. 89.028. AFFIRMATION REGARDING SURFACE REQUIREMENTS.

2       (a) An application for an extension of the deadline for plugging an  
3       inactive well must include a written affirmation by the operator:

4               (1) that the operator has physically terminated  
5       electric service to the well's production site; and

6               (2) stating the following, as applicable:

7                       (A) if the well has been inactive for at least  
8       five years but for less than 10 years as of the date of renewal, that  
9       the operator has emptied and purged all related piping, tanks,  
10       vessels, and equipment as defined by commission rule; or

11                      (B) if the well has been inactive for at least 10  
12       years as of the date of renewal, that the operator has removed all  
13       surface equipment, tank batteries, pump jacks and related lines,  
14       junk, and trash as defined by commission rule and has not  
15       transferred that material to or allowed it to accumulate on an  
16       active lease.

17       (b) Notwithstanding Subsection (a), an operator is eligible  
18       for a temporary extension of the deadline for plugging an inactive  
19       well if the operator is unable to comply with the requirements of  
20       that subsection because of safety concerns or required maintenance  
21       of the well site and the operator includes with the application a  
22       written affirmation of the facts regarding the safety concerns or  
23       maintenance.

24       (c) An operator is eligible for an extension of the deadline  
25       for plugging a well without complying with Subsection (a)(2)(B) if  
26       the well is part of an enhanced oil recovery project described by  
27       Section 202.052(b), Tax Code, and the operator includes a statement

1 in the written affirmation that the well is part of such a project.  
2 The exemption provided by this subsection applies only to the  
3 equipment required for the project.

4 Sec. 89.029. REVOCATION OF EXTENSION OF DEADLINE FOR  
5 PLUGGING INACTIVE WELL. The commission may revoke an extension of  
6 the deadline for plugging an inactive well granted under this  
7 subchapter if the commission determines, after notice and an  
8 opportunity for a hearing, that the applicant is ineligible for the  
9 extension.

10 SECTION 3. Section 91.111(c), Natural Resources Code, is  
11 amended to read as follows:

12 (c) The fund consists of:

13 (1) penalties imposed under Section 85.381 for  
14 violation of a law, order, or rule relating to well plugging  
15 requirements;

16 (2) proceeds from bonds and other financial security  
17 required by this chapter and benefits under well-specific plugging  
18 insurance policies described by Section 91.104(c) that are paid to  
19 the state as contingent beneficiary of the policies, subject to the  
20 refund provisions of Section 91.1091, if applicable;

21 (3) private contributions, including contributions  
22 made under Section 89.084;

23 (4) expenses collected under Section 89.083;

24 (5) fees imposed under Section 85.2021;

25 (6) civil penalties collected for violations of  
26 Chapter 89 or of rules or orders relating to plugging that are  
27 adopted under this code;



- 1 (7) proceeds collected under Sections 89.085 and  
2 91.115;
- 3 (8) interest earned on the funds deposited in the  
4 fund;
- 5 (9) civil penalties or costs recovered under Section  
6 91.457 or 91.459;
- 7 (10) oil and gas waste hauler permit application fees  
8 collected under Section 29.015, Water Code;
- 9 (11) costs recovered under Section 91.113(f);
- 10 (12) hazardous oil and gas waste generation fees  
11 collected under Section 91.605;
- 12 (13) oil-field cleanup regulatory fees on oil  
13 collected under Section 81.116;
- 14 (14) oil-field cleanup regulatory fees on gas  
15 collected under Section 81.117;
- 16 (15) fees for a reissued certificate collected under  
17 Section 91.707;
- 18 (16) fees collected under Section 91.1013;
- 19 (17) fees collected under Section 89.088;
- 20 (18) penalties collected under Section 81.0531;
- 21 (19) fees collected under Section 91.142;
- 22 (20) fees collected under Section 91.654;
- 23 (21) costs recovered under Sections 91.656 and 91.657;
- 24 (22) two-thirds of the fees collected under Section  
25 81.0521; ~~and~~
- 26 (23) fees collected under Section 89.023; and
- 27 (24) legislative appropriations.

1           SECTION 4. (a) Not later than September 1, 2010, the  
2 Railroad Commission of Texas shall be prepared to grant extensions  
3 of the deadline for plugging an inactive well under Subchapter B-1,  
4 Chapter 89, Natural Resources Code, as added by this Act.

5           (b) The change in law made by this Act applies only to the  
6 renewal or approval of an organization report on or after September  
7 1, 2010. The renewal or approval of an organization report before  
8 September 1, 2010, is governed by the law as it existed immediately  
9 before the effective date of this Act, and that law is continued in  
10 effect for that purpose.

11           SECTION 5. This Act takes effect September 1, 2009.