By:  Birdwell S.B. No. 1260

(In the Senate - Filed March 9, 2021; March 18, 2021, read first time and referred to Committee on Natural Resources & Economic Development; April 19, 2021, reported favorably by the following vote: Yeas 8, Nays 0; April 19, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Birdwell        X

Zaffirini       X

Alvarado        X

Hancock         X

Hinojosa        X

Hughes          X

Kolkhorst       X

Lucio                     X

Seliger         X

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the Railroad Commission of Texas to contract for the treatment of and sell drill cuttings.

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

SECTION 1.  The heading to Section 91.115, Natural Resources Code, is amended to read as follows:

Sec. 91.115.  FIRST LIEN ON EQUIPMENT AND STORED HYDROCARBONS OR DRILL CUTTINGS.

SECTION 2.  Section 91.115, Natural Resources Code, is amended by amending Subsections (a), (e), (f), and (g) and adding Subsections (f-1) and (f-2) to read as follows:

(a)  If a responsible person fails to clean up a site or facility that has ceased oil and gas operations under the commission's jurisdiction on or before the date the site or facility is required to be cleaned up by law or by a rule adopted or order issued by the commission, the state has a first lien, superior to all preexisting and subsequent liens and security interests, on the responsible person's interest in any hydrocarbons or drill cuttings stored at the site or facility and in any equipment that is:

(1)  located at the site or facility; and

(2)  used by the responsible person in connection with the activity that generated the pollution.

(e)  The lien is extinguished as to any stored hydrocarbons or drill cuttings or items of equipment that are lawfully removed by any person other than the operator or a nonoperator according to a lien, lease, judgment, written contract, or security agreement before the commission enters into a cleanup contract. An item of equipment may not be removed from an abandoned site or facility if the removal will cause the release of a substance that may cause pollution unless the substance is lawfully disposed of.

(f)  Equipment or stored hydrocarbons or drill cuttings subject to a lien under this section are presumed to have been abandoned on the date the commission enters into a contract to clean up the site or facility on which the equipment, [~~or~~] hydrocarbons, or drill cuttings are located.

(f-1)  The commission may dispose of the abandoned equipment or stored hydrocarbons in accordance with the provisions of Sections 89.085, 89.086, and 89.087 [~~of this code~~] for the disposition of well-site equipment and hydrocarbons.

(f-2)  The commission may dispose of the abandoned stored drill cuttings by contracting with a person to treat the drill cuttings at the site or facility for a subsequent beneficial use and selling the treated drill cuttings at a public auction or a public or private sale. Sections 89.085(c)-(i), 89.086, and 89.087 apply to the disposition of drill cuttings under this subsection in the same manner as those sections apply to the disposition of hydrocarbons.

(g)  In this section:

(1)  "Drill cuttings" has the meaning assigned by Section 123.001.

(2)  "Responsible [~~"responsible~~] person" has the meaning assigned by Section 91.113 [~~of this code~~].

(3)  "Treat" means to use a manufacturing, mechanical, thermal, or chemical process other than sizing, shaping, diluting, or sorting.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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