

- SUBJECT:** Eliminating certain contested case hearings for uranium mining
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 8 ayes — Ritter, Ashby, D. Bonnen, Callegari, Keffer, T. King, Larson, D. Miller
- 2 nays — Johnson, Lucio
- 1 absent — Martinez Fischer
- WITNESSES:** For — Harry Anthony, Uranium Energy Corp.; Hugo Berlanga, Uri Inc.; Jaime Carrillo; Dick Messbarger, Kingsville Economic Development Council; Mark Pelizza, Uranium Resources Inc.; (*Registered, but did not testify*: Leonard Garcia, Uranium Energy Corp.; Craig Holmes, Regulatory Consults; Peter Luthiger, Mestena Uranium LLC; Trey Powers, Texas Mining and Reclamation Association; Craig Wall, Uranium Energy Corp.)
- Against — Matt Kramer, Kenedy County Groundwater Conservation District; (*Registered, but did not testify*: Myron Hess, National Wildlife Federation; Luke Metzger, Environment Texas; Joann Robison, League of Women Voters; David Weinberg, Texas League of Conservation Voters)
- On — Charles Maguire, Texas Commission on Environmental Quality
- BACKGROUND:** Conventional mining involves removing mineralized rock or ore from the ground, breaking it up, and treating it to remove the minerals being sought.
- In situ mining involves leaving the ore in the ground and using injection and extraction wells to free and remove uranium in aquifers by dissolving it and pumping the solution to the surface, where the minerals can be recovered. The ore body needs to be permeable to the liquids and located so as not to contaminate groundwater. In situ uranium mining uses the groundwater in the ore body, which is fortified with a complexing agent. It is then pumped through the underground ore body to recover the minerals.
- To perform in situ uranium mining, uranium mining companies have to obtain both an area permit and a production area authorization from the

Texas Commission on Environmental Quality (TCEQ) to operate and mine in Texas. An area permit provides initial authorization pertaining to the overall mining activities performed in a specific area. It authorizes injection for uranium recovery for a period of 10 years and is subject to public notice requirements and contested case hearings. Expiration of authority does not relieve the permit holder from obligations to restore groundwater and plug and abandon wells according to TCEQ requirements and rules.

A production area is a separate mining zone within the permit area. Because uranium is not uniform throughout an aquifer, permit areas can have several production zones of varying size, characteristics, and distance from each other. Usually, one production area is authorized in the initial area permit. TCEQ approval is required for each new production area.

Because uranium mining typically lasts for many years, uranium mines must seek a production area authorization to mine additional areas within the initial permit area. Once one production area is mined, operators generally seek an additional authorization from the TCEQ for further mining. Before 2007, each production area authorization was viewed as a major amendment to the initial area permit, requiring a contested case hearing.

In 2007, SB 1604 by Duncan amended statute limiting the requirement for contested case hearings for production area applications only if:

- the proposed expansion changes the groundwater restoration tables licensed under the initial permit;
- there is failure to use a third party to develop the well spacing and design of the mined area; or
- the level of bonding required for cleanup after mining has occurred would change.

DIGEST:

HB 1079 would repeal provisions in the Water Code requiring that an application for the authorization of a production area for uranium mining be subject to public notice and contested hearing requirements.

The bill also would strike the related conditional language for contested case hearings for production area applications for uranium mining.

This bill would take immediate effect if finally passed by a two-thirds

record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS
SAY:**

Uranium deposits in South Texas are becoming increasingly important as part of the resurging interest in nuclear power production. However, uranium production levels in Texas are affected by the unpredictability created by multiple and duplicative contested case hearings, which result in unnecessary delays and uncertainty for companies operating in the state. Every production phase is subject to a new contested hearing even though a hearing was conducted when the initial permit for the whole mining area was approved. HB 1079 would streamline the permitting process by removing the requirement for a contested case hearing on a production area authorization.

HB 1079 would establish the regulatory certainty uranium mining companies need to expand their operations, make capital investments, and hire additional employees in Texas. In 2007, SB 1604 by Duncan sought to establish regulatory certainty for the approvals of production area authorization. Unfortunately, five years later, the intended regulatory improvements have not yet occurred. The uranium mining industry has given the overhauled regulations sufficient time to bring about change, but it is apparent that further revisions are necessary to create the certainty needed in the TCEQ regulatory processes and to ensure a positive future for the uranium mining industry in Texas.

While some have expressed concern that removing the conditions for a contested case hearing on production area authorizations would limit the ability of local governments and adjacent property owners to protect against contamination, other state and federal regulations protect against this. To ensure the safety of the general public, the environment, and industry workers, all Texas uranium mining operations are regulated by a host of state and federal authorities and must be approved before operations can begin. All projects require an exhaustive permitting process that typically lasts three to five years. Permit applications are closely scrutinized by multiple governmental agencies, including the Texas Commission on Environmental Quality (TCEQ), Railroad Commission of Texas, U.S. Environmental Protection Agency, and the Texas Department of State Health Services. Further, the regulatory structure for the Texas uranium mining industry is transparent and provides numerous opportunities for public participation and contribution.

Texas has established a pro-business environment in many areas. However, opportunities to attract new uranium mining companies can advance only if Texas makes an effort to improve its current regulatory structures. HB 1079 would take the necessary step.

OPPONENTS
SAY:

HB 1079 would remove all conditions for a contested case hearing on production area authorizations, effectively stripping the compromise language from SB 1604 by Duncan, which was enacted by the 80th Legislature and limited the requirement for a contested case hearing only in certain circumstances. HB 1079 would undermine citizen rights in uranium-rich South and Southeast Texas. It would prevent local governments and adjacent property owners from bringing in experts to help TCEQ with the necessary scrutiny on critical issues such as the possible contamination of what is often these landowners' and local governments' only source of drinking water. These hearings serve as an important tool for concerned groups to prevent the negative environmental and public health outcomes of mining activities. With renewed interest in mining because of the increased price of uranium, citizens should be assured the right to a contested case hearing.

When conducting in situ uranium mining, dozens of injection and extraction wells are used to free and then remove uranium that is in the aquifers. The mining also releases arsenic, lead, and other metals that are found with the uranium. Uranium mining almost always takes place in the drinking water aquifers used by local landowners and communities for their water supply.

Because uranium is not uniform through the aquifer, but found in small pods, uranium mines have multiple production areas, even dozens. Each production area can be significantly different in size and characteristics. They can be substantial distances apart, even by a few miles. HB 1079 would give a blanket right to produce anywhere in the permit area, without the opportunity to reassess each unique area if necessary.

NOTES:

The companion bill, SB 434 by Hancock, was reported favorably without amendment from the Senate Natural Resources Committee on April 24.