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

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

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

SECTION 2. Section 36.119, Water Code, as amended by this
S.B. No. 1383

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.

SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2007.
S.B. No. 1383

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1383 passed the Senate on April 26, 2007, by the following vote: Yeas 31, Nays 0; May 24, 2007, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 26, 2007, House granted request of the Senate; May 26, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1383 passed the House, with amendment, on May 23, 2007, by the following vote: Yeas 144, Nays 0, two present not voting; May 26, 2007, House granted request of the Senate for appointment of Conference Committee; May 26, 2007, House adopted Conference Committee Report by the following vote: Yeas 136, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

15 Jun 07

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
8:00 O'CLOCK

JUN 15 2007

Secretary of State

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