

**SUBJECT:** Authorizing liens on stored hydrocarbons at oil-field cleanup sites

**COMMITTEE:** Energy Resources — favorable, with amendment

**VOTE:** 5 ayes — West, Canales, Crabb, E. Jones, B. Keffer

0 nays

2 absent — Farabee, Delisi

**WITNESSES:** For — Martin Fleming, Texas Independent Producers and Royalty Owners Association; Bill Stevens, Texas Alliance of Energy Producers

Against — None

On — Mark Helmueller and John Tintera, Texas Railroad Commission; Wendell Smith, General Land Office

**BACKGROUND:** Natural Resources Code, ch. 91, subch. D governs the Oil-Field Cleanup Fund of the Texas Railroad Commission (RRC). Money in the fund may be used for investigating potentially contaminated sites, cleaning up oil and gas waste, plugging abandoned wells, and other activities that prevent pollution by inactive and abandoned oil wells. Under sec. 91.115, the fund partially consists of monies accruing from liens placed on equipment from abandoned oil-fields that require state remediation.

**DIGEST:** HB 2613 would give the state a first lien on any hydrocarbons that were stored at an oil or gas site or facility that had not been cleaned up prior to the date required by the RRC.

HB 2613, as amended, also would require that any lien on stored hydrocarbons provided by this bill would be secondary to a lien securing royalty payments to the state.

The bill would apply only to an interest in hydrocarbons stored at a site or facility ordered for cleanup on or after its effective date of September 1, 2003.

**SUPPORTERS  
SAY:**

Oil-field cleanup is an expensive process, and HB 2613 would allow the RRC to offset the cost of this program to taxpayers by placing a lien on hydrocarbons stored at an abandoned site. The RRC currently can place a lien on equipment at an abandoned site, but hydrocarbons also are a valuable resource that could be sold. Proceeds from the salvage and sale of these hydrocarbons would be deposited back into the Oil-Field Cleanup Fund to help defray the costs of the oil-field cleanup.

HB 2613 would make consistent the law authorizing RRC action at oil plugging and cleanup sites. While the RRC currently can place a lien on hydrocarbons when plugging an abandoned site, it lacks the authority to salvage these resources at an oil-field cleanup site. Under this bill, the RRC could salvage and sell both equipment and stored hydrocarbons at any abandoned site, whether in conjunction with plugging a well or a cleaning up a facility.

By flouting state law, an individual who abandons a hazardous oil facility forfeits any right to the resources at that facility. The state is forced to pick up the tab for the site's cleanup, and therefore should be authorized to salvage and sell what it could to offset the cost of remediation.

**OPPONENTS  
SAY:**

The authority of the RRC to seize property from a person's land without due process should not be expanded. HB 2613 immediately would place a lien on any stored hydrocarbon at a site or facility, and the property owner would have to demonstrate compliance in the event of a mistake. Regardless of the burden of litigation or enforcement, the RRC should not be given blanket authority to seize stored hydrocarbons belonging to a well operator or affiliated interest.

**NOTES:**

The committee amendment would stipulate that any lien placed under this bill be "subject to and inferior to" any lien on stored hydrocarbons to secure royalty payments to the state.