

SUBJECT: Establishing ownership of fluid oil and gas waste

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 10 ayes — Paddie, Anchia, Bailes, Craddick, Darby, Geren, Gutierrez,  
Harris, Perez, Rosenthal

0 nays

1 absent — Herrero

WITNESSES: For — Frank Cusimano, Chevron USA; Kerry Harpole, Marathon Oil Company; John Tintera, Texas Alliance of Energy Producers; (*Registered, but did not testify*: Lindsey Miller, Anadarko Petroleum; Lauren Spreen, Apache Corporation; Paula Bulcao, BP America, Inc.; Corbin Casteel, Centennial Resource Development; Mark Harmon, Chesapeake Energy; Steve Perry, Chevron USA; Royce Poinsett, Cimarex Energy Co.; Stan Casey, Concho Resources; Tom Sellers, ConocoPhillips; Teddy Carter, Devon Energy; Betsy Madru, Diamondback Energy; Greg Macksod, Encana Oil and Gas; Morgan Johnson, Endeavor Energy Resources; Caleb Troxclair, EOG Resources, SM Energy; Jimmy Carlile, Fasken Oil and Ranch; Amy Maxwell, Guidon Energy, Primexx Energy; Hugo Gutierrez, Marathon Oil Company; Bill Stevens, Panhandle Producers and Royalty Owners, Texas Alliance of Energy Producers; Michael Lozano, Permian Basin Petroleum Association; Mark Gipson, Pioneer Natural Resources; Carol Sims, Texas Civil Justice League; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Ben Sebree, Texas Water Recycling Association; Cory Pomeroy, TXOGA)

Against — Brice Ferguson, Cactus Water Services, LLC; Robert Crain, Micheal Dobbs, Kathryn McIntyre, Texas Pacific Land Trust; (*Registered, but did not testify*: Peyton Schumann, Texas and Southwestern Cattle Raisers Association; Jimmy Gaines, Texas Landowners Council)

On — (*Registered, but did not testify*: Leslie Savage, Railroad Commission of Texas)

**BACKGROUND:** Natural Resources Code sec. 122.001 defines fluid oil and gas waste as waste containing salt or other mineralized substances, brine, hydraulic fracturing fluid, flowback water, produced water or other fluid that arises out of or is incidental to the production of oil and gas.

Sec. 122.002 assigns ownership of oil and gas waste to a person who takes it for the purpose of treating it for subsequent beneficial use and considers it to be that person's property until it is transferred to another person for disposal or use, unless otherwise provided in a legally binding document.

**DIGEST:** CSHB 3246 would establish that when fluid oil and gas waste was produced and used by a person who took possession of that waste for the purpose of treating the waste for subsequent beneficial use, the waste would be considered to be the property of the person who took possession of it for subsequent beneficial use until the person transferred the waste or treated waste to another person for disposal or use. This would apply unless otherwise expressly provided by a legally binding document, including an oil or gas lease and a surface use agreement.

The bill would take effect September 1, 2019.

**SUPPORTERS SAY:** CSHB 3246 would promote fluid oil and gas waste recycling by providing greater certainty that oil and gas producers had ownership rights in oil and gas waste. This would close a gap where the ownership of oil and gas waste was not clear while it was in the hands of the oil and gas operators who handled and managed waste prior to recycling and treatment. This could encourage recycling, reduce the need for disposal wells, and create new sources of water, material, and hydrocarbons. Historically, management of oil and gas waste has been a cost absorbed by operators. If royalty owners are concerned about the value of oil and gas waste, they can account for it in future agreements.

**OPPONENTS SAY:** CSHB 3246 could deprive royalty owners of ownership of potentially valuable oil and gas waste by assigning ownership of it to the operator without compensation. Oil and gas waste can have financial value that

should be subject to royalty agreements.