SIERRA CLUB
LONE STAR CHAPTER

To: The Honorable Chairman Tracy King
Members, House Committee on Natural Resources
Re: HB 4119 (Guillen)
From: Cyrus Reed, Conservation Director, Lone Star Chapter, 512-888-9411, cyrus.reed@sierraclub.org

Just Say no on HB 4119: Takes away neighbor's rights on uranium mining production authorizations

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HB 4119 by Guillen makes a major change to Chapter 27.0513 of the Water Code that allows in certain circumstances neighbors, ranchers, groundwater districts, county governments and other potentially affected persons to seek contested case hearings. It also undermines an agreement that the Sierra Club and other concerned organizations negotiated some 10 years ago in the 2013 Legislative Session with Rep Guillen, Rep Lucio III, then Chair Dennis Bonnen and many other important legislators. ***We believe the compromise has worked well and are disappointed that Rep Guillen is introducing this legislation, especially in a year when TCEQ is going through sunset, and so many citizens are concerned about TCEQ not giving more opportunity for citizens to be involved in permit discussions.***

Under current law, uranium companies that want to mine for uranium using underground injection wells are required to seek both an initial permit at least once every 10 years - which is subject to contested case hearings and establishes the initial boundaries of the mining area - and then when they are ready to mine certain areas they must also seek a Production Area Authorization or PAA. In other words, the initial permit sets out general mining requirements and practices and areas, but it is the PAA where the specific groundwater restoration levels, monitoring wells and specific volumes are established. PAA are thus treated like a major amendment to a permit under many circumstances.

Under the compromise arrived at over 10 years ago, PAAs were not subject to contested case hearings unless the value of the restoration levels for the groundwater was above the range established in the initial value within the permit range table. If the authorization fell within the range, and certain other conditions applied, then neighbors could not seek a contested case hearing.

In addition, under Chapter 27.0513 (e)-(g), certain other conditions were established that helped determine when the contested case hearings could be set. Chairman Guillen is removing those provisions. Those provisions allowed for a contested case hearings for the first PAA under certain circumstances, but not subsequent PAAs, unless certain conditions applied. Again, this was language meant to balance the legitimate concerns for citizens, groundwater districts and counties, with the needs of the state to develop uranium resources. While we understand that a very limited CCH would still be allowed under HB 4119, it is very unlikely to occur and Rep Guillen is removing the one condition that is of most concern - the restoration levels of groundwater.

Specifically the provisions that HB 4119 would remove state:

(e) The range of restoration values in the range table used for Subsection (d) must be established from baseline wells and all available well sample data collected in the permit boundary and within one-quarter mile of the boundary of the production zone.

(f) As an alternative to Subsection (d), the first application for an authorization issued under Subsection (c) for a production zone located within the boundary of a permit issued under Subsection (a) is subject to the requirements of Chapter 2001, Government Code, relating to an opportunity for a contested case hearing. The first authorization application must contain the following provisions:

(1) a baseline water quality table with a range of groundwater quality restoration values used to measure groundwater restoration by the commission that complies with the same range requirements as a permit described by Subsection (a);

(2) groundwater quality restoration values falling at or below the upper limit of the range established in Subdivision (1); and

(3) groundwater baseline characteristics of the wells for the application required by commission rule.

(g) If a first authorization has previously been issued for a production zone located within the boundary of a permit, that authorization is effective for the purposes of this subsection. A subsequent authorization application for a production zone that is located within the same permit boundary as a production zone for which an authorization was issued under Subsection (f) is not subject to an

opportunity for a contested case hearing or the hearing requirements of Chapter 2001, Government Code, unless the subsequent application would authorize the following:

(1) the use of groundwater from a well that was not previously approved in the permit for supplemental production water;

(2) expansion of the permit boundary; or

(3) application monitoring well locations that exceed well spacing requirements or reduce the number of wells required by commission rule.

Sierra Club's Position

The most important aspect of the PAA is whether or not the groundwater will be restored to certain levels. HB 4119 takes away the rights of citizens to contest certain PAAs if the restoration levels are above those set in the initial permit. That is a fundamental chipping away of public input and participation in TCEQ processes. We oppose this legislation.