April 9, 2019

If history has taught us anything, it is that accidents happen, insurance policies underpay, and cleanup of toxic and radioactive waste always takes longer and is more expensive than anyone imagined.

One need only look at the sad history of South Texas and uranium mining to see just how long, how expensive and how scarred the experience with uranium mining byproducts has been in Texas. There have been 32 abandoned uranium mines on private ranches across South Texas identified by the Railroad Commission of Texas has having been mined before new federal law adopted in 1977, all of which have taken decades and millions of dollars to clean up, mainly using federal funds when the private companies went belly up or skipped town.

Most recently, through their abandoned mine land program, the Railroad Commission of Texas finally cleaned up the Brown Abandoned Uranium Mine site in Karnes County utilizing over $4 million in federal funds. The clean up of a site that was mined in the mid-70s took until 2015 to be back to “safe” levels. In addition, at other sites, the RRC has spent more than $10 million in federal funds, and the majority of the 32 sites have not completed clean-up (https://www.rrc.texas.gov/media/22611/texasamlprojects.pdf).

In addition to these pre-1977 sites, there are four “mill tailings” sites in Texas that have spent tens of millions through both legal action and action by the Nuclear Regulatory Commission in Hobson, Texas (Rio Grande Resources Corporation), Three Rivers Texas (two sites: Intercontinental Energy Corporation, and ExxonMobil), and at the Conoco-Phillips site in Falls City, Texas.

These four sites are still in various stages of decommissioning and clean up and groundwater contamination and challenges are frequent. In particular, the Intercontinental Energy Corporation center has been disastrous, with the licensee essentially abandoning the Lamprecht and Zamzow Projects without completing decommissioning. The state is now involved in a legal proceeding with other parties (representative of the last licensee, representative of a
successor to a former licensee, and landowner heirs) and the Travis County Court, in whose registry the remaining funds from the decommissioning trust reside.

The TCEQ has begun using alternative funds to remediate and release the properties for unrestricted use. From May thru June 2016, 1851 cubic yards of by-product material were removed and disposed of in an authorized disposal facility.

Indeed, HB 1 contemplates using money in the Environmental Radiation and Perpetual Care account to help spend some $7 million to clean it up, though passage of the Landgraf/Seliger bill will reduce this amount available to TCEQ for clean-up due to the proposed reduction in the surcharge on imported radioactive waste from 20 percent to five percent.

The history of abandoned mines and mill tailings projects is a lesson in the need to provide upfront contingency funds, and not leave the state and federal government on the hook for millions of dollars of clean-up and a legacy of toxic and radioactive waste.

It is important to note that mill tailings and traditional mining is no longer used in Texas, but in-situ uranium mining is though it has less immediate impacts. Nevertheless, problems with restoring groundwater to pre-mining levels as required can be very difficult if not impossible.

It is also important to note that the type of waste that is being housed at the site in Andrews County -- low-level radioactive waste -- or being contemplated for eventual importation -- high-level radioactive waste -- is highly radioactive and concentrated and if an accident were to occur would be much more expensive than our legacy with uranium mining and mill tailings.

If history is a guide, we must pass strong financial assurance and contingency measures so the state doesn’t get left holding the bag.

HB 4089 does three great things to help avoid this historical problem. First, it would require shippers and carriers to carry liability insurance sufficient to cover damages likely to be caused by a shipping accident.

Second, the bill would require the State Auditor to analyze potential remediation costs and the potential economic and health effects related to radioactive waste. The State Auditor would be required to report the results of the review and analysis no later than December 1, 2020. This could lead to a much greater financial assurance and contingency fee for the low-level site.

Third, the bill replaces an existing $10 fee paid to DHSH, and instead replaces a fee set by TCEQ in an amount it determines to be adequate to remediate a potential radiation release and related damage.
While the Sierra Club understands that a committee substitute is being developed for the bill, we believe these three provisions alone make the bill worthy of passage -- more realistic insurance requirements, a study on the economic consequences of a worst-case accident, and a new fee on shipped waste to replace the low DSHS fee to help us prepare for cleanup is vitally needed.