

SUBJECT: Authority of certain municipalities to regulate certain quarry activities

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 6 ayes — Bonnen, Hancock, Lucio, Driver, Kuempel, West

0 nays

1 absent — T. King

WITNESSES: For — Cobby Caputo, Patrick Girard, Bob Lemon, and Stephen Thomas, City of Cedar Park; Torsten Weirich, Westside Homeowners' Association; Barry Allison; Nell Payne; Lucille Turner; (*Registered, but not testifying*: Robin Schneider, Texas Campaign for the Environment; Tom "Smitty" Smith, Public Citizen; Mary R. Brown; Laura L. Edwards; James Mathis; Mark McHugh; William H. Santschi, II; Deborah K. Tropiano; Faye Wedell)

Against — Rudy Garza, David Lloyd, and Judy Musgrove, City of Austin (*Registered, but did not testify*: Jane Burazer, City of Austin)

On — (*Registered, but did not testify*: L'Oreal Stepney, Texas Commission on Environmental Quality)

BACKGROUND: In 1987, the city of Austin purchased a rock quarry located at FM 1431 and Lime Creek Road. The city purchased the land with the intent of depositing sludge from a water treatment facility at some point in the future. When the city of Austin bought the quarry, it was located in an unincorporated area. Today, the city limits of Cedar Park include the rock quarry, which remains under Austin's ownership.

Austin leases the quarry to Ranger Excavation, a private company that quarries rock from the area. This lease was set to expire in December 2007. However, the city of Austin recently extended the lease because it did not have immediate plans to deposit sludge in the area. Another reason for the lease's extension is Ranger Excavation's desire to continue quarrying rock from the area.

Cedar Park's officials have attempted to rezone the area to prevent depositing of water treatment sludge. However, Austin officials intend to

move forward with plans to deposit sludge at the site, set to begin in 2013. This would continue until 2063, when Austin would give the quarry to Cedar Park.

DIGEST: HB 2910 would apply to a rock quarry that was:

- owned or leased by a municipality with a population of more than 650,000, according to the 2000 census;
- located in the boundaries of a municipality with a population of less than 50,000, according to the 2000 census; and
- located within one mile of a residential property

The municipality that owned or leased the quarry would be required to obtain permission from the municipality where the quarry was located prior to:

- disposing of water treatment byproducts in the quarry site; or
- entering into or extending a lease to operate the quarry.

The municipality where the rock quarry was located could not consent to either of the conditions listed above if:

- the health, safety, or welfare of residents could negatively be affected by the disposal of byproducts or operation of the quarry;
- the quarry site or operation of the quarry did not comply with the municipality's land use and zoning regulations; or
- the quarry site or operation did not correspond with the municipality's land use and development plans.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS
SAY:

HB 2910 would require Austin and larger cities to obtain consent from cities the size of Cedar Park and smaller before depositing water treatment sludge in a quarry site located within the smaller city's municipal boundaries. It would affirm that cities are entitled to control development procedures within their own municipal boundaries.

In the case of the dispute between Austin and Cedar Park, the rock quarry is located above a recharge zone for the Edwards Aquifer, the primary source of water for much of south central Texas. The quarry contains cracks that may induce leakage, which could negatively affect water quality if Austin were allowed to begin dumping sludge in the area.

Another concern involves the quarry's location next to a large scale residential development. Neighbors worry about Austin's plan to deposit sludge so close to their homes. Nearby residents also complain about the traffic in the area due to the quarrying activities. Another annoyance is the dynamite blasts at the quarry site, which occur twice daily Monday through Friday.

The implications of trucking sludge from a larger city to a smaller city raise concerns of environmental injustice. Within its city limits, Austin often promotes development plans designed to have minimal environmental impacts. In its plans to dispose of water treatment sludge, Austin would be acting in contradiction to its professed environmental stewardship.

**OPPONENTS
SAY:**

In 1994, Cedar Park annexed the area where the rock quarry is located. Austin was not informed of this decision until it was nearly final. The cities attempted to devise a joint land-use plan in 1999, which would have established park land in one area and allowed residual deposits in another area.

Austin plans to dump a brownish-gray powder, mostly calcium carbonate, in the quarry site. The product is not smelly "sludge" but rather a type of dirt. The city has been contacted by other property owners that would like this dirt to fill up holes. Austin's intent could be beneficial for both cities, giving Austin a place to dump this dirt and providing a parkland for Cedar Park.