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A Few Thoughts about Hurricane Ike – and How We Move Forward

By Ken Kramer, Director
Lone Star Chapter, Sierra Club

Nature has a way of periodically intruding on our daily lives dramatically and forcefully from time to time. Such has been the case with Hurricane Ike, of course. Ike has left an indelible mark on a significant part of the Texas coast and indeed throughout a good part of East Texas. Moreover, some of the impacted areas were still recovering from Hurricane Rita a mere three years ago.

The thoughts of all of us at the Lone Star Chapter of the Sierra Club go out to all of our Sierra Club members, supporters, and friends – and indeed all affected residents of our state – as they cope with the impact of Ike on their lives and their property. Some in the storm's path fared better than others, but few people in the storm's path have been unaffected. As a person who experienced some of the effects of Hurricane Carla as a kid in Houston in 1961, I know that hurricanes leave a distinct impression even on those people who are only minimally affected physically. They affect how we view the

world in many ways from that point forward. Certainly Hurricane Carla helped to shape my life as an environmentalist.

Lessons from Ike

While our most immediate response to Ike must be focused on caring for the people whose homes were lost or badly damaged by the hurricane and restoring everyday services to communities whose power and water infrastructure were disrupted by the storm, we need to begin focusing some attention on the lessons learned from Ike. For those of us in the environmental community, our focus is very much on the environmental lessons Ike taught us or at least reminded us. Among those lessons:

(1) **Our Texas coast is a fragile and dynamic system.** The tendency of most people seems to be to think of land as a constant thing

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that – except for human development of the land – changes little except over long periods of geologic time. That may be true for some areas. It is definitely NOT the case for coastal areas such as the Texas Gulf Coast. Our coastline – especially the barrier islands – are constantly eroding in some places and accreting in other places, even in “normal” times. A tropical storm or hurricane just dramatizes the process through its power and intensity.

(2) Although hurricanes are part of a natural cycle, their immediate impacts on ecosystems and wildlife habitat may be devastating, especially in areas already under stress due to development and pollution. State wildlife officials are just beginning to assess the damage to terrestrial species along the Texas coast, for example, but they are already projecting that the impacts on many of those species have been devastating particularly in areas subjected to coastal flooding.

(3) Much of our land development and population growth along the Texas coast has magnified the impacts of hurricanes and tropical storms and put more people in harm’s way. Over pumping of groundwater in coastal areas produced land subsidence, which has subjected more territory in an already low-lying region to flooding on a recurring basis. Marshes and sand barriers absorb the impacts of storms, but coastal land development has drained many marshes, damaged dunes,

led to accelerated erosion, and had other deleterious effects that reduce or eliminate the protection these natural defenses have provided. Relentless growth along the Texas coast – pushed by economic interests that downplay the potential dangers – have made more people vulnerable to hurricanes.

Moving Forward

Where do these lessons lead us? Hopefully they lead us to make some better decisions about how and where we rebuild as our coastal communities seek long-term recovery – or else we will find ourselves at some point in perhaps the not too distant future back where we are now after Hurricane Ike. Also perhaps these lessons will lead some of our Texas political leaders to a better understanding of the urgency of dealing with global warming, which threatens through sea-level rise and perhaps a greater intensity of tropical hurricanes to be a critical problem for the Texas coast.

In the coming months and years the Lone Star Chapter of the Sierra Club will be working with other environmental groups, public interest organizations, and citizens in general to help shape our state’s response to Hurricane Ike in ways that build upon the lessons learned and lead to better protection of our coastal resources and the lives of our coastal residents, and indeed of resources and residents far from the coast who nevertheless find themselves in a storm’s path.

“Clean Energy Bill” Loophole: Gas Plants Off Tax Rolls

Appraisal Districts, Sierra Club, Urban Counties Alarmed at Interpretation of HB 3732

When Texas legislators passed the “Advanced Clean Energy Bill” in 2007 to create tax incentives to get cleaner power plants up and running they included an expansion of the state’s “Proposition Two” program, which provides property tax relief to pollution control equipment that is utilized to meet or exceed the requirements of environmental laws, rules, or regulations.

Sponsored by House Energy Resources Chairman Rick Hardcastle and Senate Natural Resources Committee Chairman Kip Averitt, the legislators added a list of 18 devices that they said the Texas Commission on Environmental Quality (TCEQ) must assess to see if they would qualify either wholly or partly as pollution control equipment and, therefore, under the State Constitutional Amendment approved in 1993, be considered as exempt from local property taxes.

A “Liberal” Interpretation of the New Law

Unfortunately, TCEQ has interpreted this new provision to mean that large portions of existing natural gas combined cycle plants should be taken off of the tax rolls since they utilize “heat recovery steam generators (HSRG)” – a specifically named device in the bill -- that have the effect of preventing further

emissions than would otherwise occur since they recapture wasted heat to produce more electricity. The bill did not have any restriction that would prevent existing plants from taking advantage of the newly named devices.

Appraisal Districts in at least six instances have appealed the TCEQ’s “positive determination” that 100 percent of the value of the heat recovery units is exempt because they use a type of pollution control covered under HB 3732.

Impact of the TCEQ Interpretation

As of August of 2008, 36 different facilities had sought a determination from TCEQ that their heat recovery units – and the “Enhanced Steam Turbine” – were being used as pollution control equipment. While some companies sought 100 percent of the value of the equipment, others used a more modest methodology and only sought 13 to 25 percent of the value of the HSRG.

On the applications on which the agency had acted – even upon those seeking less than 100 percent of the value of the HSRG, TCEQ determined that while the turbine itself was not pollution control equipment, the HSRG

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Sierra Club and Others Call on PUC to Take Action for Solar and Other “Non-Wind” Renewables

Groups Urge PUC to Jumpstart 500 MW Renewable Energy Requirement on Electric Utilities

Responding to a call for written comments, the Lone Star Chapter of the Sierra Club, Public Citizen, and the Sustainable Energy and Economic Development (SEED) Coalition has told the state Public Utility Commission (PUC) that the easiest way to jumpstart the state requirement that retail electric providers purchase or invest in at least 500 MWs of non-wind renewable energy by 2015 is to impose penalties on those utilities who do not act to meet the requirement.

The groups note that money generated by imposing penalties – as authorized by law – on any utilities that fail to build or purchase power from solar, geothermal or biomass facilities by certain dates could flow into a new grant program for on-site solar power authorized by the Texas Legislature in 2007. The grant program would provide incentives for utilities to invest in non-wind renewable energy.

The call for comments was a direct result of the passage in 2005 of SB 20 – which expanded the state’s Renewable Portfolio Standard to 5,880 MWs by 2015, including a target of 500 MWs of non-wind renewable energy – and last session’s passage of HB 1090 by Rep. David Swinford (R-Amarillo).

Among other provisions, HB 1090 clarified the intent of the Legislature that the 500 MWs be treated as an actual goal and not just a hopeful target.

In its comments, the Sierra Club pointed out that while Texas had already almost met its total goal of 5,880 MWs of electric power generation from renewable energy, some 4490 of the 4600 new MW capacity of renewable energy generation capacity installed by the end of 2007 – more than 97 percent of the total – was the result of the development of wind power alone.

Simple Penalty System

Rather than setting up an alternative compliance payment structure – as some have advocated but which does not actually lead to non-wind renewable energy generation in place – Sierra Club and its allies favor utilizing a much simpler penalty system.

Currently, through rulemaking, the PUC has established a penalty system for providers that do not meet the RPS requirements. The penalty is the lesser of \$50 per MWh or 200% of the average cost of credits traded during the year.

However, this system was created before the passage of HB 1090 and the clarification of the non-wind goal, and was based upon the cost of wind.

Instead, the groups suggested that the penalty for failure to meet non-wind RPS be set at \$500 per MWh, a level ten times the amount for wind, and that any penalties collected flow to a fund to finance non-wind renewable development.

Such a price would be far above the cost of developing non-wind renewable energy and give retail electric providers a financial reason to purchase Renewable Energy Credits or invest directly in renewable energy.

They also suggested that, for further clarification, the PUC could set one penalty for on-site renewable goals and another penalty for off-site renewable energy.

Grant Program

The money collected could then flow into a fund at PUC intended to provide grants to solar demonstration projects, a program created through an amendment by Rep. Garnett Coleman (D-Houston) to HB 3693, sponsored by Rep. Joe Straus (R-San Antonio).

According to the amendment, the PUC is required to establish a grant program for installation of solar electric systems for new residential subdivisions, for installation of

solar electric systems for new or established affordable housing for persons with low incomes; and a demonstration project for installation of solar electric systems for small businesses.

Sierra Club and the other groups are also interested in working with the renewable energy industry to create new incentives and requirements to grow the renewable energy sector – particularly solar – in Texas.



Sierra Club Sues RUS over Failure to Make Public Costs of Sandy Creek Coal Plant

The Sierra Club earlier this month pressed the Rural Utilities Service (RUS) of the U.S. Department of Agriculture to make public important information about the costs of an expensive coal plant, the Sandy Creek plant, being developed by Houston-based Dynegy near Waco, Texas. The group filed a lawsuit in U.S. District Court to obtain documents withheld from a Freedom of Information Act response that detail some of the risks of the new coal plant. The failure of RUS to provide this information to the public is consistent with the Sierra Club's concern, expressed in a letter to the federal agency two weeks ago, that the U.S. Department of Agriculture continues to place taxpayers and consumers at risk by approving new coal-fired power plants without first fully evaluating the consequences.

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units were. All told, the decisions – barring the appeals – could mean that some \$2 billion might come off the tax rolls.

The ultimate amount might be considerably less, however, given the appeals, the fact that the turbines themselves were not included in the positive determinations, and the TCEQ decision to put the other applications on hold.

Bringing Stakeholders Together

In August, following the appeals, the TCEQ brought together stakeholders to seek input on how to assess the pollution control impacts of HSRGs. Not surprisingly, many industrial representatives favored an interpretation that would continue to grant 100 percent of the value of the combined cycle units heat recovery units.

On the other hand, appraisal districts, the Conference of Urban Counties, and the Lone

Star Chapter of the Sierra Club argued that TCEQ had misinterpreted the intent of HB 3732, which was to provide incentives to the cleanest plants, and only grant tax exemptions to the portion of equipment that was intended as pollution control equipment.

As Conference of Urban Counties Executive Director Donald Lee argued, how can the TCEQ determine that a device intended to produce more electricity is actually being used to control pollution?

Sierra Club View

Sierra Club and others have advocated a strict cost approach which would compare the value of the HSRG equipment compared to that of a simple cycle gas plant that would have had to spend money to prevent emissions through more traditional means – like scrubbers – minus the money earned through the sale of additional electricity from the more efficient combined cycle gas plants.

“Clearly, we have to separate the pollution control aspects of HSRGs from their productivity measures since the voters only approved tax breaks for pollution control equipment – not for production equipment that helps the companies earn money and should be subject to taxation,” stated Lone Star Chapter Conservation Director Cyrus Reed at the recent stakeholder meeting. “Combined cycle plants are cleaner, but the law establishes that you can only give a tax break on the cost



**SIERRA
CLUB**
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P.O. Box 1931 Austin, TX 78767
tel: (512)477-1729 fax: (512) 477-8526
lonestar.chapter@sierraclub.org
<http://texas.sierraclub.org>

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of the equipment that makes it cleaner minus any productivity benefit.”

Reed said that in addition to coming up with a clear formula to separate the production versus the pollution control aspect of HSRGs, legislators might have to tweak HB 3732 to make their intent clear and prevent massive amounts of equipment coming off the tax rolls, particular in counties with large industrial tax rolls. Otherwise, the taxes to pay for roads, schools and basic county and city services could be shifted more to residents while the Legislature is trying to reduce property taxes.

Sierra Club ultimately opposed HB 3732 in the Legislature in part because the proposed tax breaks were not limited to plants meeting “advanced emission controls,” but were open to all facilities – including existing gas plants – with certain types of equipment.

What’s Next?

TCEQ officials announced at the stakeholders meeting that they would be forming recommendations for their executive director and commissioners on implementation of HB 3732 in the coming weeks.

For a full list of the companies that have sought the tax break and other related information, please visit TCEQ’s website page on the issue, <http://www.tceq.state.tx.us/assistance/taxrelief/steam-generators.html>.

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“The costs of coal continue to rise, placing more strain on households already burdened with high energy costs,” said Bruce Nilles, director of the Sierra Club’s National Coal Campaign. **“Approving these plants without fully evaluating the negative impacts, looking at alternatives, or providing cost information to the public puts taxpayers, consumers, and the environment at risk.”**

“With more coal plants proposed than any other company in the nation, Dynegy is not only setting up the risk of future economic burden for electricity consumers, they are stepping up to be one of the worst new polluters in the country,” said Laurie Vanhooose, Sierra Club’s coal campaign organizer in Texas.

Today’s action comes after the Rural Utilities Service failed to disclose nearly 100 pages of information about Dynegy’s Sandy Creek coal plant, including definitions of “Cost of Coal” and “Operating Standards”, as well as an “Economic Analysis of LS Power Transaction”, purchase power agreements, credit ratings from Standard & Poor’s and Fitch Ratings, and all records related to a loan guarantee for the project approved by the government. These documents are important for ratepayers to understand the energy prices they will be paying for the next 50 years and to determine whether tax dollars could be better spent on other energy projects.



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LONE STAR CHAPTER
SIERRA CLUB LONE STAR CHAPTER
STATE CONSERVATION OFFICE
PO BOX 1931
AUSTIN TX 78767

<http://texas.sierraclub.org/>

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