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STATE CAPITOL REPORT

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Funding for Programs and Conservation Likely to be the Major Focus for Water Issues This Session

Appropriations Process Begins Moving Forward

As a result of the passage of major water legislation in 2007 (Senate Bill 3 and related House Bills 3 and 4), and a sense that these and other new water initiatives need some time to be implemented, water issues may not have as high a profile in the 2009 regular session as was the case last session. However, funding for water projects and water programs such as conservation are expected to be a major topic for discussion and perhaps action.

The Lone Star Chapter of the Sierra Club is pushing aggressively for a substantial increase in state funding to advance water conservation and efficiency in Texas as the first and most cost-effective and environmentally sound way of meeting the state's water needs. In addition the Sierra Club has identified funding to implement the environmental flows protection process and the state's program for providing water and sewer services to "economically distressed areas" as key priorities for water funding.

Sierra Club Testimony on Water Funding

Over the course of the past two weeks **the Sierra Club has presented both oral and written testimony on water funding to two key legislative bodies involved in the development of appropriations for the state's natural resources and environmental agencies: the Senate Finance Committee and the House Appropriations Subcommittee on General Government.**

The primary focus of that testimony was on the so-called "exceptional items" requested by the Texas Water Development Board (TWDB) as part of their legislative appropriations request for the 2010-2011 biennium. "Exceptional items" are those funding requests over and above the funding levels that reflect the base budget of the agency for the current biennium. TWDB submitted a list of 13 exceptional items for consideration this session. These

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exceptional items are discussed as part of the TWDB *Legislative Priorities Report for the 81st Legislative Session*, which may be accessed in the “Hot Off the Press” section on the home page on the TWDB website (<http://www.twdb.state.tx.us/home/index.asp>).

In testimony before the legislative appropriations bodies, Sierra Club state director Ken Kramer submitted comments on what the Club feels to be the three TWDB exceptional items that deserve the highest priority for consideration by the Legislature (in rank order): SB 3 environmental flows work, (2) advancing water conservation in Texas, and (3) the economically distressed areas program. In addition he also submitted brief comments on the Club’s position on other exceptional items proposed by TWDB. Following are those comments:

Senate Bill 3 Environmental Flows Work

“SB 3 (Article 1) and HB 3 were passed with much fanfare in 2007 and set up a new process for Texas to develop environmental flow standards for the state’s rivers and their inflows into coastal bays and estuaries – a process which is being followed closely by water experts around the country as a potential model. The environmental flows work is in its initial stages in the first river basin and bay areas to be addressed, and this is a critical time for assuring the success of this work. A relatively small

investment of approximately one-half million dollars for the biennium will help to ensure that this process achieves its goals as implementation of these SB 3 provisions ramp up and cover additional river basins and bays.”

Advancing Water Conservation in Texas

“SB 3 (Article 2) and HB 4 also expanded efforts to address critical Texas water needs through increased water conservation and greater efficiency in the use of existing water supplies. Only modest funding, however, was provided in 2007 to implement the relevant provisions of the legislation. This exceptional item is directed toward providing the funding to implement all of the water conservation provisions of SB 3 – specifically funding to provide additional support for the Water Conservation Advisory Council, to implement the statewide public awareness program on water created but not funded by SB 3, and a grant program for rainwater harvesting.

The Sierra Club supports not only the TWDB exceptional item request of \$6.7 million for the biennium to advance water conservation but also the additional approximately \$7 million for this purpose recommended by the 23-member Water Conservation Advisory Council established by SB 3. [Editor’s Note: Further information on the Council’s recommendations for funding may be found in *A Report on Progress of Water Conservation in Texas: Report to the 81st Legislature*, submitted by the Council in

December 2008. The report may be found on the Water Conservation Advisory Council website at <http://www.savetexaswater.org/>.]

Economically Distressed Areas Program (EDAP)

“The Sierra Club believes that EDAP is an essential program for providing water and sewer service to those Texans most in need of those services and with the least ability to pay for them. A clean and dependable water supply for essential purposes should be a right for all Texans, and the \$8.4 million total in debt service and appropriations to TWDB for EDAP (including grants for facility planning) would help the state to assure that right for more Texans.”

Other Exceptional Items

“The Sierra Club also supports the TWDB exceptional item requests for groundwater science for groundwater management, TNRRIS data service, support for the activities of the Study Commission on Region C water supply, and climate variability research.

“We take no position on the exceptional item requests for enhancing recharge to the Ogallala Aquifer, flood protection planning grants, state participation program, or the seawater desalination initiative. We do not agree with providing state money for “federal regulatory support. We believe that some funds are needed for State Water Plan debt service but question

whether there is a need for anywhere near the \$98 million requested by TWDB, believing that infrastructure needs are overestimated in the State Plan.”

Funding of Water Infrastructure Projects

Although the Sierra Club noted this concern about over-estimation of water infrastructure needs in its appropriations testimony, it is clear that the funding of such projects is on the legislative agenda. During the interim between the 2007 and 2009 legislative sessions legislative leaders examined the issue of what level of funding they need to continue the state’s general financial assistance program for water infrastructure projects through the Texas Water Development Board (TWDB) and/or to finance projects identified as part of the 2007 state water plan – and whether a new revenue source will be created to provide money for at least some of that funding. A special interim committee – the **Joint Committee on State Water Funding** – was the primary vehicle for that examination. The report of that Committee is expected to be released shortly.

During the course of the Joint Committee’s hearings and deliberations TWDB provided a list of five potential options for additional revenue for water program funding, as follows:

- sales tax on retail utility water and sewer service
- water conservation & development fee

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State and Local Parks Funding Still a Critical Matter for the Texas Legislature

Action Needed This Session to Continue Progress from 2007

During the last session of the Texas Legislature, over 200 organizations, including the Lone Star Chapter of the Sierra Club, representing conservation, parks (state and local), hunting, fishing, wildlife, cities, counties and chambers of commerce actively participated in securing increased funding for state and local parks. Combined, these organizations represent millions of Texans who support our natural treasures and outdoor recreation. The legislature responded positively. But, that funding was for only two years and was only a down payment on the 10 year recommendations of the State Parks Advisory Committee.

Sierra Club Position

The Lone Star Chapter of the Sierra Club is continuing the effort for parks appropriations for the Texas Parks & Wildlife Department for 2010/2011 (see page 5 for the full listing of our parks requests to the Legislature). We support:

- Full funding of the agency's base appropriations request and exceptional items
- Allocation of 94% of the revenues generated by the sporting goods tax to TPWD for state parks and the local park grants program
- Re-instatement of Rider 27 so that all

revenues generated by state parks go to meet the funding needs of the state parks system

- Appropriations of sporting goods tax funds, Rider 27 funds, and other sources of parks and wildlife funding only for their intended purpose: enhancement of state and local parks, hunting, fishing, wildlife, kayaking, and canoeing

There are many reasons why the Sierra Club takes these positions, but one of the reasons, as has been stated before, is the value of state and local parks and other outdoor recreation venues to public health – in other words their value to the physical and mental well-being of Texans, especially that of our children.

Legislative Action

Evelyn Merz, Conservation Chair for the Lone Star Chapter, testified on parks appropriations issues before the Senate Finance Committee on February 18, emphasizing especially the need to provide TPWD with sufficient funds for acquisition of new parkland, funding that has been sorely lacking for years. Ken Kramer, state Sierra Club director, testified in favor of the TPWD legislative appropriations

Sierra Club's Ten-Point Request for Texas State & Local Parks

1. State Parks need a total of \$379.7M, contained in Texas Parks & Wildlife Department's (TPWD's) legislative appropriations request for the 2010-2011 biennium of \$775.8M, for its **base budget plus exceptional items**.

2. This session, the Legislature should dedicate funds from the **sporting goods sales tax to state parks**, and the local park grant programs.

3. State Parks needs to maintain strong, consistent funding for local parks grant programs. The entire \$47.4M in the base budget for the biennium should be available to **open competitive grants**.

4. **Hurricane Ike damages** are about \$99.0M and are not in the initial Legislative Appropriations Request and will have to be funded separately.

5. Rider 27 (aka Appropriation of Additional Receipts) from the 2008-2009 appropriations should be reinstated for the 2010-2011 biennium. This rider would appropriate to TPWD all of the

revenue from parks that exceeds the State Comptroller's estimate for that revenue. Parks should be encouraged to benefit from **self-generated revenue**.

6. TPWD needs **salary equity**. Its personnel's salaries lag behind comparable state agencies. It diminishes TPWD's ability to recruit and retain park workers.

7. TPWD needs to continue its **capital repair** program, initiated by the 80th Legislature, and funded by General Obligation Bonds.

8. TPWD needs to expand **accessibility to outdoor recreation**.

9. TPWD needs staff to implement required **fiscal controls** at state parks.

10. TPWD needs **acquisition and development** funds for state parks, 50% for acquisition and 50% for development. The base budget only includes about \$5.0M statewide for acquisition for the biennium.

Parks, *continued from page 4*

request before the House Appropriations Subcommittee on General Government on February 23.

Staffers for the Senate Finance Committee subcommittee focusing on appropriations for natural resources agencies are already beginning this week to discuss parks funding, and the House subcommittee is expected to begin working on initial recommendations on funding for natural resources agencies next week (these recommendations will then go to the full House Appropriations Committee).

Concern about Diversion of Sporting Goods Tax Money

A key issue to parks advocates is that sporting goods tax revenue currently available for appropriation to TPWD will be once again diverted and perhaps more “permanently” diverted to the General Land Office for “coastal erosion” (“beach nourishment”) projects.



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- water rights fee
- tap fee on public water supply connections
- sales tax on bottled water

Each one of these options, however, generates some opposition from one or more interest groups (for example, many retail water suppliers object to the tap fee which they would probably be required to collect but which would generate money only for the state, not the suppliers directly themselves).

An Environmental Perspective

The major environmental groups active on water at the Legislature (Lone Star Chapter of the Sierra Club, National Wildlife Federation, and Environmental Defense Fund) have taken the position that legislative decisions on water resources financing should be first guided by a clear set of fiscally- and environmentally-responsible principles, as follows:

- **Beneficiaries Pay** - Infrastructure or other projects that benefit one particular community or industry or local areas should be paid for by the direct beneficiaries of that project, wherever possible.
- **Need & “Least-Cost Analysis Required** – The Legislature should mandate, where state money is to be used, that funding applicants provide an analysis demonstrating a clear need for the project, a clear need for state funding, and proof that the project is

the least-cost alternative for meeting that need.

- **Incentive to Conserve** – If the Legislature establishes a fee based on water use to generate revenue, that fee should be structured to promote water use efficiency.
- **Objectivity of Environmental Analyses** – If state funding is to be used to support environmental or other studies required for permitting a project, the state (rather than the project developer) should select the contractor for such studies.

As noted above, the environmental community in general believes that the “need” for the number of water supply infrastructure projects in the state water plan is overstated, so major increases in funding for new infrastructure projects will be closely scrutinized.

The “Stimulus”

The new kid in town as far as funding for water infrastructure projects is concerned is, of course, the federal stimulus package recently passed by the U. S. Congress and known officially as the American Recovery & Reinvestment Act. However, the thrust of the funds available through the stimulus package appear to be in regard to water treatment and wastewater treatment projects and not other water projects.

In testimony to the House Appropriations

Subcommittee on General Government, Legislative Budget Board analyst Aaron Henricksen indicated that TWDB is expected to receive \$180.5 million in Clean Water Revolving Fund money and \$167 million in Safe Drinking Water Revolving Fund money from the stimulus package. Kevin Ward, TWDB Executive Administrator, noted in later testimony, however, that TWDB has received requests for \$4.9 billion for Clean Water Fund money and over \$6 billion for drinking water funds, far above what Texas will receive in stimulus money for these types of projects.

Looking Ahead

The Sierra Club will continue to monitor and play an active role in shaping the Texas Legislature’s actions on water funding, including the separate issue of appropriations for water programs at the Texas Commission on Environmental Quality (TCEQ), especially water quality programs. This session is likely to support the proposition that funding state agencies and programs is the key task of the Legislature, and that will certainly be the case for water.

QCS

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