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STATE CAPITOL REPORT

Vol. 27, No. 14 Publication of the Lone Star Chapter Sierra Club September 29, 2009

Keep Texas Beaches Open!

Vote for Proposition 9 on November 3!

Most Texas voters probably think that 2009 is an “off-year” in which there are no elections scheduled for the fall. A few municipalities such as the City of Houston will hold elections on November 3, however, and *all* registered Texas voters have the opportunity to go to the polls that day (or in early voting) to express their opinions on eleven proposed amendments to the state constitution. Of those eleven “propositions,” the most important from an environmental perspective is Proposition 9, the “open beaches” amendment.

Strengthening the Open Beaches Protection

Protection of public access to Texas beaches is already in law in the Open Beaches Act, enacted by the Texas Legislature five decades ago in 1959.

Proposition 9 is important, however, because it would put that protection into the Texas Constitution, giving public access to Texas beaches more certainty.

While a simple majority of legislators in both houses of the Texas Legislature could revise or repeal the Texas Open Beaches Act, the revision or repeal of a provision of the state constitution requires a vote by 2/3 of the members of both houses of the Legislature as well as subsequent approval by the voters of the state – a more difficult road to travel.

Moreover, while Texas state courts have the authority to strike down a state law such as the Open Beaches Act, they would not have the same authority to eliminate a provision of the Texas Constitution (although the interpretation of a provision might affect its application). Indeed on November 19 the Texas Supreme Court will hear a case challenging the Open Beaches Act – the first time such a challenge has reached the state’s highest court.

The case was brought by a Galveston County property owner whose houses wound up being in the public beach easement after Hurricane Rita changed the vegetation line that demarcates private and public property
see Open Beaches, page 2

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boundaries under the Open Beaches Act.

Proposition 9

The actual language of Proposition 9 on the ballot reads as follows: **“The constitutional amendment to protect the right of the public, individually and collectively, to access and use the public beaches bordering the seaward shore of the Gulf of Mexico.”**

Passage of the proposed amendment has been endorsed by the Lone Star Chapter of the Sierra Club and is supported by numerous other groups such as the Surfrider Foundation, which has four chapters in Texas.

Supporters of the proposed state constitutional amendment have a website with more information about Proposition 9. That website is **www.votefortexasbeaches.org**.

HJR 102

Proposition 9 began life as House Joint Resolution 102, introduced by **State Rep. Richard Raymond** (D-Laredo) in the House and sponsored by **State Sen. Juan Hinojosa** (D-Mission) in the Senate.

The Texas House of Representatives passed HJR 102 on a 140-1 vote, and the Senate approved it by a 29-2 margin.

Now **Texas voters need to finish the**

job by going to the polls on November 3 – or during the early voting period – to give public access to the state’s beaches the constitutional protection that it deserves.

Other Propositions

The Sierra Club is not taking a position on any of the other proposed state constitutional amendments.

However, voters who would like to see the complete list of propositions in advance of the election and would like to know more about the proposals may go to the Texas Secretary of State’s website for that information.

The link is as follows: <http://www.sos.state.tx.us/elections/voter/2009novballotlang.shtml>.



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PUC Agrees to Delay in LCRA Wind Transmission Line Filings to Study Alternative Routes

The state Public Utility Commission (PUC) agreed this month to delay the filing dates for “Certificates of Convenience and Necessity” (CCNs) for certain proposed transmission lines that would bring renewable energy from wind power plants from west to central Texas. In approving the motion by the Lower Colorado River Authority (LCRA) to delay its filing deadline, PUC Chairman Barry Smitherman acknowledged that the considerable public input from landowners, public officials, environmental organizations and many individuals, and eventually the LCRA itself, had caused the PUC to agree to delay the filings.

“We want to do it right,” Smitherman explained at the PUC Commissioner’s meeting on September 24. “But it must be built.”

The Lines

The transmission lines are part of the CREZ – the Competitive Renewable Energy Zone – transmission lines approved by the PUC last year in response to 2005 legislation to increase production of electricity from renewable resources.

The delay centers around four different proposed transmission lines in two different CCNs that were originally scheduled to be

submitted on October 7 and October 28. The CCNs will now be separated into three separate filings, with the most controversial of the transmission lines – known as McCamey D to Kendall – being delayed approximately six months, until July of 2010.

In approving the delays and the motion, PUC is agreeing to allow LCRA to widen the scope of its study – in some cases more than doubling the initial area of review – to look at running transmission lines along existing rights of way generally and specifically along the Interstate-10 route. At issue are the potential negative aesthetic, habitat, land value, wildlife and other potential impacts of large transmission lines cutting through the Hill Country as LCRA had originally proposed.

Viewpoints

Writing on behalf of a new group of landowners along the LCRA’s proposed transmission lines known as the Clear View Alliance, Bill Neiman suggested that the LCRA’s failure to consider alternative routes in their initial filings “is especially troubling given the Commission’s direction to LCRA, in its July 30 open meeting ‘to consider as many routes as possible.’” Neiman also criticized the LCRA for its failure to discuss the options with

Mark Your Calendar for the
Sierra Club Conference

WATER
For People and the Environment

Saturday, January 16, 2010 – 9 AM to 4 PM

United Way Community Resource Center, Houston

Join us for this important water conference regarding your water future.
Topics to be covered will include:

Preservation of freshwater inflows into Galveston Bay and Sabine Lake

•

Instream flow needs for fish and wildlife habitat in Southeast Texas

•

Water conservation efforts in Houston and Southeast Texas

•

The latest updates on regional water plans

•

Drought management to meet future water needs

•

Sustainable management of area groundwater supplies

Pre-registration: \$30 (deadline: January 11) / \$40 at the door
Register online at <http://texas/sierraclub.org>, or call 512-477-1729.

Students may attend free if pre-registered (\$10 at the door).

Students need to bring student ID for verification. Registration includes lunch.

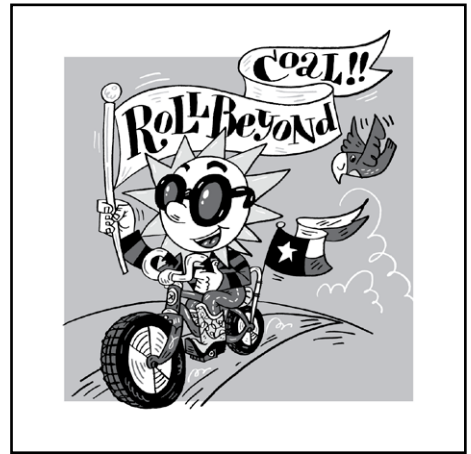
The 2010 “Water for People & the Environment” Conference is co-sponsored by Galveston Bay Foundation, National Wildlife Federation, Environmental Defense Fund, and others.

ROLL BEYOND COAL, TEXAS!
Ride or Hike with Sierra Club and Friends
Saturday, October 31
for Clean Power, Green Jobs, and Clean Air

Sierra Club and friends around the state are planning fun, educational rallies, bicycle rides and hikes on Halloween, Saturday, October 31. Our goal? -- to Roll Beyond Coal in Texas.

Events have been scheduled in Alpine, Austin, Beaumont, Corpus Christi, and Dallas (see schedule below). Register online at www.texas.sierraclub.org to participate in one of the events.

For more information or to volunteer to help with one or more events: email donna.hoffman@sierraclub.org (512-477-1729) or eva.hernandex@sierraclub.org (512-476-2052).



Roll Beyond Coal Bike Rides & Hikes – Saturday, October 31, 2009

ALPINE -- 10:00 AM Clean Energy Rally & Bike Ride, Kokernot Lodge, 1104 Loop Road,
<http://texas.sierraclub.org/bigbend/index.html>

AUSTIN 1:00 PM City Hall, Clean Energy Bike Tour or Hike and After Party
<http://www.texas.sierraclub.org/austin>

BEAUMONT 8:00 AM, Bike Ride to Roll Beyond Coal, Dowlen Road & Phelan Blvd
<http://texas.sierraclub.org/triangle/index.html>

CORPUS CHRISTI 12:00 noon, Roll Beyond Coal -- Keep the Coast Clean, McCaughan Park (across from McGee Beach, by Memorial Coliseum)
<http://www.cleaneconomycoalition.org/rbc>

DALLAS 8:30 AM Register, 10:30 AM Ride, Ride for Clean Air with family and friends, The Bath House, White Rock Lake
<http://www.dallassierraclub.org/>

Texas Flooded with Water Conferences This Fall

If you were hoping to spend most of your time in October and November attending water conferences in Texas, you won't be disappointed. Hardly a week will go by over the next couple of months without the opportunity to attend at least one, if not two, such conferences (one of the reasons that the Sierra Club "Water for People and the Environment" was moved from this fall to January – see page 4 of this publication). Below are three of the more immediate events (others will be highlighted in subsequent issues of the *State Capitol Report*).

October 3 – Brenham

The Texas Wildlife Association, joined by several other organizations, is sponsoring the "South Central Texas Water Conservation Conference" at the Washington County Fair Grounds Event Center, 1305 Blue Bell Blvd. Topics include future water projections, groundwater ownership, environmental flows,

land stewardship, and flood management. Cost of the conference (which runs from 9 AM to 4 PM) is \$35 at the door.

October 13 – Houston

The Shell Center for Sustainability at Rice University, in partnership with the James A. Baker III Institute for Public Policy, is hosting the second annual conference on sustainability in Houston. This conference is focused on the theme "Water in the Houston Metabolism: Water Needs and Water Quality for this Century." There is no cost for attending this event although registration is requested (<http://cohesion.rice.edu/centersandinst/shellcenter/>).

November 13 – Houston

The Bayou Preservation Association is holding a symposium on "Stormwater, the Underfunded Asset: The Economics of Stormwater Solutions" from 7:30 AM to 4 PM at the United Way of Greater Houston at 50 Waugh Drive. Cost of registration is \$50, which includes lunch; the deadline for registration is November 1. Go to <http://www.bayoupreservation.org/> for registration or more information.

Information will be provided in the next issue regarding water conferences in Fort Worth on November 16-17 and in San Marcos on November 16-18 as well.



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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his group.

LCRA attorney Ferdie Rodriguez, in speaking for the utility, noted that while the LCRA had done some review of the alternative routes, the very compressed transmission schedule did not allow the PUC to conduct a “route adequacy proceeding,” meaning getting it right at the front end of CCN applications was a necessity. Rodriguez defended his employer against charges that they had refused to meet with opponents of the transmission lines to discuss other options, noting the large number of open houses, questionnaires, and individual meetings in homes they have held since 2008.

Wind companies in attendance at the meeting on September 24 did not oppose the motion. They did express concern, however, about the delay and the potential that any delay in construction or major changes to proposed routes might lead to increased costs to consumers.

The Lone Star Chapter of the Sierra Club also supported the proposed delay, writing in comments submitted earlier this month that “location of transmission lines does matter and as a national organization, Sierra Club has argued and supported rules that make sure generation sources and transmission lines are placed in places with the least amount of public and environmental damage.... We also hope that the resulting studies will help inform future

CREZ lines in other areas to avoid expensive litigation and delay on bringing renewable energy where it is needed most.”

In supporting the delay, Smitherman and fellow Commissioners Donna Nelson and Kenneth Anderson, Jr. urged local landowners and other interested parties to get involved in the formal approval process. “Unless you are a party, and unless you submit evidence... about alternatives in the record, we can’t even consider it,” Anderson explained.

Looking Ahead

The LCRA lines are only two of the nine proposed transmission lines slated to be built over the next four years in an effort to bring an additional 10,000 MWs of wind – and potentially solar – to the parts of the state where electricity is most used. The LCRA’s Gonzalez noted that even with the delay the transmission lines still would be completed by the end of 2013.

Solving the problem of getting wind power from where it is generated to where the bulk of the energy demand exists is considered by many to be a critical factor in expanding the use of renewable energy in Texas.



Sierra Celebration October 23-25

Martin J. Dies, Jr. State Park

The Lone Star Chapter Annual Outing with hiking, canoeing, nature walks, camping, food and camaraderie (and some story telling).



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

LONE STAR CHAPTER

<http://texas.sierraclub.org>

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Register for
[ROLL BEYOND COAL](#)
Rallies for Clean Energy
Bike Rides & Hikes
Saturday, October 31
Alpine, Austin,
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