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STATE CAPITOL REPORT

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Proposition 9 Overwhelmingly Approved by Texas Voters Puts Texas Open Beaches Protection into State Constitution

Proposition 9 – the proposed state constitutional amendment to protect public access to Texas beaches – won overwhelming support from Texas voters in the November 3 election, garnering the second highest percentage of favorable votes among the eleven propositions on the ballot. Over a million Texans cast their ballots on Prop 9, with more than $\frac{3}{4}$ of them in support of the proposed amendment.

“The voters of our state have made it resoundingly clear that Texas beaches are a public resource that should be accessible to everyone,” said Ken Kramer, Director of the Lone Star Chapter of the Sierra Club, on the night of the election. **“Texans have always supported open beaches, but now they have given public access to beaches an extra level of protection by putting that right into the state constitution. Future generations will be the beneficiaries of the wisdom shown by Texas voters today.”**

Reaffirming Open Beaches Protections

Protection of public access to Texas beaches was already in statute in the Open Beaches Act, enacted by the Texas Legislature five decades ago in 1959. The Act itself reflected the rights of the public under interpretations of common law.

Putting the Open Beaches principle into the Texas Constitution is significant, however, because it gives public access to Texas beaches more certainty. Amending the Constitution is much more difficult than amending a statute.

Proposition 9

The actual language of Proposition 9 on the ballot read 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.”**

Plans Progressing for January Water Conference in Houston

Conference Will Focus on Key Water Issues for Southeast Texas

The agenda and list of speakers for the Sierra Club “Water for People and the Environment” Conference in Houston on January 16 are being finalized, and attendees will get the latest information about a range of key water issues facing southeast Texas. This conference, co-sponsored by Galveston Bay Foundation and other organizations, is one in a series of regional water conferences and public forums held over the past decade by the Lone Star Chapter of the Sierra Club as part of the Texas Living Waters Project. The Project is a joint public education and public policy project in which the Chapter has partnered with the National Wildlife Federation and the Environmental Defense Fund.

Information about registering for the conference may be found on the Lone Star Chapter website at <http://texas.sierraclub.org> or by calling the Sierra Club State Conservation Office in Austin at 512-477-1729. As the schedule for the one day conference is finalized, all of the details will be available on the website and reported in upcoming issues of the *State Capitol Report*.

Environmental Flows

The conference will focus in part on one extremely timely topic – the status of efforts to preserve instream flows in southeast Texas rivers and freshwater inflows into Sabine Lake

and Galveston Bay. Under provisions of Senate Bill 3 passed by the Texas Legislature in 2007 the State of Texas embarked on an ambitious process to determine these “environmental flows” necessary for the protection of “a sound ecological environment” for the coastal bays and estuaries of Texas and the river basins associated with those coastal systems. The Sabine River Basin and the Trinity and San Jacinto River Basins and the bay areas into which they feed freshwater are the first two areas of the state to undergo this process.

In December the expert science teams formed in these two bay/basin areas will present their recommendations as to the “environmental flow regimes” that would meet the ecological needs of these areas. The January conference will have presentations on these recommendations and outline the process by which these recommendations will be reviewed, and how the recommendations may be turned into actual protections of environmental flows – including how the public may become involved in these decisions.

Other Issues

Hear updates on regional water plans for southeast Texas, on water conservation success stories and on desalination as a possible water supply measure for parts of Texas. Stay tuned for more details.

Hundreds of Texans Rally on Halloween to Stop the Dirty Texas Coal Rush

Events Call for Clean Power, Green Jobs, and Clean Air

Hundreds of Texans from all walks of life -- approximately 35 in Alpine, 200 in Austin, 50 in Beaumont, 100 in Corpus Christi and 200 in Dallas -- rallied to Roll Beyond Coal on Halloween, Saturday, October 31. Calmly scared half to death about rising coal costs, and health and environmental impacts of 12 new Texas coal plants, they are taking action to stop the second wave of the Texas coal rush and promoting instead clean air, clean power, green jobs, and the availability of water in the future.

Coal Plant Pollution Threatens Air Quality

“These 12 new coal plants are a significant jump to the 17 operating coal plants we already have in Texas,” said Rita Beving with Dallas Sierra Club. **“Whether it’s the nearby plants being built east of Waco or the one proposed as far away as Abilene, the wind carries coal plant pollution north to the Dallas-Fort Worth area and will only exacerbate our ability to reach attainment.”**

The Dallas-Fort Worth area is currently in non-attainment of required federal clean air standards, as is Houston and the Beaumont-Port Arthur area. Austin, San Antonio and the north east Texas area have early action compacts and are near non-attainment. New federal air quality standards coming this fall (70 ppb) will

mean that several additional regions of Texas will go into non-attainment.

Many states around the nation have dropped plans for coal plants, letting Texas run far ahead in a horrible lonely lead in the opposite direction. Texas has the largest number of proposed plants still moving in various stages of permitting – contested case hearings, appeal, and construction.

With the grotesque rate of acceptance of the Texas Commission on Environmental Quality (TCEQ), a whole army of new coal plants could go online in the next few years emitting their enormous tonnage of pollution as they rev up to a full-throttled, smog-spewing, global warming, lung-clogging, nerve-shattering, mind-numbing, and heart-stopping blast of nitrogen oxides, sulfur dioxide, particulate matter, mercury, and carbon dioxide.

See the fact sheet list of the proposed coal plants in Texas (page 7) and the gory truth on their cumulative emissions numbers (page 5).

Human Health Impacts

Corpus Christi cardiologist, Dr. Greg Silverstein said, **“In Corpus Christi, we already experience twice as much asthma as the state average. If the Las Brisas pet coke**

see Coal page 4

Coal, *continued from page 3*

plant is allowed to go forward with the huge annual emissions of smog and smoke in their permit application, we will see a significant increase of even more asthma in Corpus Christi and the surrounding towns. I am concerned about my patients and all the people of Corpus Christi.”

Pet coke is regulated similarly to coal and it emits the same nasty pollutants. See the effects coal and pet coke plants have on human physiology in the table, page 5.

Coastal Bend doctors of the Nueces County Medical Society and the Tri-County San Patricio-Aransas-Refugio Medical Society passed resolutions opposing the permitting of the hilariously named Las Brisas (the Breezes) pet coke plant.

Corpus Christi citizens from all walks of life united across classes; Hispanics, Anglos, men, women, children, and the elderly crowded into a room that couldn't contain their opposition at last February's preliminary hearing in which a large number of individuals and organizations including the Clean Economy Coalition and the Sierra Club received 'standing' for a contested case hearing which began this week.

Clean Energy Solutions and Green Jobs

“There are many reasons to oppose coal plants – they cost too much, make people sick, contribute to global warming, and use enormous amounts of water,” said Eva Hernandez, Regional Organizer for Sierra Club's



Beyond Coal campaign. **“Another reason is that they are a huge dangerous diversion from the clean power and green jobs economy that Texas is so perfectly suited for and already leading.”**

Roll Beyond Coal is a project of Sierra Club's Climate Recovery Partnership and the Lone Star Chapter of the Sierra Club. In Texas, Sierra Club is fighting to stop new coal plants and clean up and phase out old coal plants. Sierra Club's environmental partners include our 14 regional Sierra Club groups, lawyers on the Texas contested case hearings the Environmental Integrity Project, running buddies Sierra Student Coalition, Public Citizen, and a cast of dozens of Texas organizations.

For More Information:

Event reports and photos will be posted soon on <http://www.sierraclub.org/coal/tx/>

Photos of Austin event -- <http://www.flickr.com/photos/lonestarchaptersierraclub/sets/72157622718305094/>

Health Impacts from Existing Texas COAL Plant Pollution (Annually)

Carbon Dioxide (CO₂)

150,494,857

Principal global warming gas.

Tons

Texas is #1 in the nation for CO₂ pollution from coal plants.

Mercury (Hg)

11,004

Texas is #1 in the nation for mercury from coal plants.

Pounds

Texas coal plants emit *twice as much mercury as other states combined*.

It takes 1 gram of mercury to contaminate a 20 acre lake.

25 Texas waterways are under state health advisories for mercury ingested by eating contaminated fish.

Mercury primarily affects fetuses and young children's development and their brains and nervous systems; it causes developmental disorders and neurological diseases; *and*, mercury is thought to contribute to autism. 1 in 100 Texas children are autistic.

Nitrogen Oxides (NO_x)

112,852 Tons

Forms smog which makes people susceptible to lung tissue damage and reduces lung function.

Sulfur Dioxide (SO₂)

449,032 Tons

Makes fine particles and acid rain, contributes to breathing problems, asthma and aggravates heart and lung disease.

Particulate Matter (PM)

14,315 Tons

PM reduces average life expectancy

Coal plant pollution causes 1,105 hospital admissions, 1,791 heart attacks, and 1,160 deaths every year in Texas.

Texas deaths from asthma, a disease linked to coal plant pollution, have almost doubled since 1980.

The "2004 Clear the Air Report, Dirty Power, Dirty Air" links asthma to coal plant pollution.

Ask the EPA to Take Bold Action in Texas

Comments Needed NOW on EPA Efforts to Make TCEQ Air Permitting Comply with Federal Law

As reported in the September 10 issue of the *State Capitol Report*, the Environmental Protection Agency (EPA) recently ruled that the key aspects of the Texas Commission on Environmental Quality (TCEQ) air pollution permitting program do not meet requirements of the federal Clean Air Act followed by other states. The EPA is seeking public comments *RIGHT NOW* on the changes that need to be made to the TCEQ air program to bring it into compliance with federal law.

A strong show of public support for EPA to hold TCEQ accountable is needed, and EPA should be urged to use this opportunity to address citizen concerns about TCEQ's process for permitting new coal-fired power plants and its poor regulation of existing coal plants.

Texas Coal Plants

Texas has more proposed coal and pet coke fired power plants than any other state in the nation, is #1 in carbon emissions, and is on the top of the list for the largest increase in emissions over the past five years. Texans deserve better. We cannot let coal stand in the way of our clean energy future in Texas.

The EPA must put strong rules in place to make sure the coal industry is held responsible for their pollution and that no permits issued under TCEQ's current permitting process are allowed to proceed forward. Strong regulations are vital to cleaning up the energy industry and putting us on a path to clean energy technology that boosts economic growth, creates jobs in Texas and protects our air quality and community health.

Comments Needed

Comments are needed to EPA Administrator Lisa Jackson and Mr. Stanly Spruiell, EPA Air Permits Section. The Sierra Club urges the public to applaud them for EPA's proposed ruling that major portions of the TCEQ air permitting process do not adhere to the Clean Air Act, and should be thrown out.

We are asking citizens to tell the EPA



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officials that this was a good first step but that now is the time for the EPA to take bold action:

- Halt any new air pollution permits from being issued by TCEQ utilizing TCEQ's current illegal policy
- Create a moratorium on the operations of any new coal-fired power plants in Texas until the TCEQ cleans up its act by operating under the Federal Clean Air Act standards
- Require coal companies clean up their old, dirty plants - no exemptions, no bailouts, and no special treatment - by reviewing all permits issued since the TCEQ adopted its illegal policies and requiring these entities resubmit their applications in accordance with the Federal Clean Air Act.
- Put stronger rules in place in order to reduce global warming emissions and to make sure new laws and rules do not allow existing coal plants to continue emitting global warming gasses.

Quick Way to Comment

The quickest way to send comments to the EPA officials is to go to the Sierra Club's Lone Star Chapter website (<http://texas.sierraclub.org>) and click on "Ask EPA to Take Bold Action in Texas" on the home page. That link will take you to a page where you may customize a comment letter and then click to send it directly to EPA. The Sierra Club urges you to act NOW.



Proposed New Texas Coal Plants

Coal plants in beginning stages of permitting:

- Coletto Creek, expansion near Goliad
- Las Brisas, Corpus Christi, urban petcoke
- White Stallion, near Bay City
- Tenaska, near Sweetwater
- Limestone, near Jewett a couple of hours north east of Waco

Coal Plants that received permits, are currently under appeal, in construction or new online in Texas:

- Sandy Creek, Riesel near Waco
- Oak Grove, Franklin east of Waco
- Sandow, near Rockdale, went online in Oct. 2009

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