Comments of the Lone Star Chapter of the Sierra Club on SB 7 by Senator Creighton, et al - Prepared by Ken Kramer, Water Resources Chair, and Submitted by Cyrus Reed, Conservation Director, to the Senate Committee on Water & Rural Affairs on Monday, March 11, 2019

The Sierra Club appreciates the opportunity to comment on SB 7, a significant piece of legislation to create a new Texas Infrastructure Resiliency Fund, with several accounts, to provide state financial assistance for flood projects. The recently completed State Flood Assessment by the Texas Water Development Board provided strong evidence of the need for substantial sums of non-local funding to assist local communities over the next ten years in addressing flooding. Therefore, passage of flood project funding legislation this session is understandably a priority for the 86th Legislature.

However, it is critical that the Legislature revamp and enhance flood project funding in a manner that will accomplish true flood reduction and protection, do so in a cost-effective way, and work in concert with natural forces and processes. Since there are several, somewhat competing, legislative proposals for flood project funding this session, and SB 7 is perhaps one of the more complex ones, the Sierra Club is testifying ON SB 7, rather than taking a position for or against the bill at this time.

We must be candid in stating that the Sierra Club has some misgivings about any legislation that would establish a massive new infrastructure fund because such a fund might be used to build some structural flood control projects with negative environmental impacts. The history of flood control in Texas and in the United States includes examples of structural projects that have disrupted wildlife and aquatic habitat, enabled land development that paved over greenspace and reduced groundwater recharge, or simply moved flooding from one area to downstream areas, sometimes enhancing the intensity of floods in the process.

Moreover, the language in some sections of SB 7 indicate that one potential use of at least some of the accounts in the new resiliency fund might be in support of a coastal barrier, which in various configurations raises serious questions about environmental and other impacts and is, to say the least, highly controversial. The Sierra Club has adopted a strong position in favor of a more comprehensive
approach to protection of the Upper Texas Coast (see attached resolution) and does not favor the massive structural coastal barrier approach.

However, we recognize that new structural projects may be necessary for flood mitigation and drainage in some situations, may often be designed in ways that reduce or eliminate negative environmental impacts, and may be combined with nonstructural measures in a comprehensive flood program. Moreover - and most importantly to the Sierra Club - if the new flood fund is implemented in a way that gives true consideration to nonstructural flood projects, perhaps on a priority basis, then real progress toward addressing flooding in Texas may be made.

To achieve that potential, the legislation needs to include language that makes clear that the new fund may be used for all nonstructural flood measures, including easements on or buyouts of land and property in the floodplain where advisable and purchase of greenspace to maintain natural drainage and reduce flooding potential.

Sierra Club, therefore, recommends that the proposed new Texas Water Code Section 16.451 in SB 7, defining what constitutes a “flood project,” be revised to add “acquisition of land, easements, or other property for nonstructural flood mitigation and drainage” to the list of items considered eligible projects. This revision is critical to ensuring that all nonstructural alternatives are given serious consideration in the implementation of the new fund.

The Sierra Club also believes that public input to the implementation of any new funding mechanism such as the proposed Texas Infrastructure Resiliency Fund in vitally important to assure that the fund meets needs of the state and its people. Thus, Sierra Club suggests that language be added to sections of SB 7 dealing with the work of the proposed Texas Infrastructure Resiliency Advisory Committee to require (not just authorize) a public hearing at least semi-annually before the Committee makes any comments or recommendations to the Texas Water Development Board on matters related to the resiliency fund or “comments or recommendations on the feasibility of the state owning, constructing, operating, and maintaining flood projects, including reservoirs and coastal barriers.” Moreover, we recommend that in Section 4 of SB 7 that the Water Development Board be directed to conduct a stakeholder process, similar to that which the agency used in implementation of SWIFT and SWIRFT, to take input prior to the drafting of proposed rules to implement the operation of the resiliency fund.

In conclusion, the Sierra Club wants to emphasize that establishing a new flood project funding mechanism is only one part of what needs to be a truly comprehensive and effective approach to addressing flooding issues in Texas. In addition to more scientific research on floods and the planning process proposed
in other legislation, a comprehensive approach requires reasonable but effective regulation of development in floodplains, prohibitions on development in areas where appropriate, and much greater attention to how nature-based solutions may provide cost-effective and successful ways of managing or preventing floods.

Resolution on Upper Texas Coast Protection

Whereas, the Upper Texas Coast (including Galveston Island and Bolivar Peninsula) provides important historic, recreation, ecologic, economic, scenic, other values and benefits, and places for people to live:

Whereas, 95% of marine organisms in the Gulf of Mexico, at some point in their life cycle, depend upon access to healthy bays and estuaries;

Whereas, the Upper Texas Coast has longtime natural shoreline erosion and accretion, exacerbated by human causes:

Whereas, the Upper Texas Coast has many important natural areas including shallow water areas; shallow water mud and sand bottoms, beaches; sand dunes; coastal prairie; freshwater marsh; brackish water marsh; salt water marsh; mud flats; coves, bays, and estuaries; riparian or bottomland hardwood forested wetlands; and other important habitats;

Whereas, the beaches of Galveston County are now providing habitat for recovering endangered species, specifically the head-started Kemp's Ridley Sea Turtle and the Piping Plover:

Whereas, climate change is exacerbating existing flooding, subsidence, and rising sea level, thus increasing the potential for hurricane and storm damage problems on the Upper Texas Coast;

Whereas, it is important to recognize the goals of removing people and structures from harm’s way, since hurricanes and flooding threaten our coast, while protecting natural ecosystems and functioning ecological processes on the Upper Texas Coast;

Be it therefore resolved, that the Sierra Club supports careful consideration of the protection of the Upper Texas Coast and communities on Galveston Island and Bolivar Peninsula using the following principles:

1. The protection of Galveston Island and Bolivar Peninsula should be part of an Upper Texas Coast Erosion and Accretion Regional Plan (UTCEARP) which addresses coastal erosion and accretion; restoration and protection of natural coastal erosion and accretion processes so that they function naturally or more naturally than currently; protection of natural ecosystems; steers development away from more vulnerable natural coastal areas and those areas that are more vulnerable to hurricane and storm damage: and is implemented from Sabine Lake to Matagorda Bay.
2. The UTCEARP should focus any hard erosion, solutions, conserved compatible with the UTCEARP, on developed areas near the seawall in the City of Galveston proper, and allow no artificial structures that would impeded the natural currents and salinity of Galveston Bay, or impeded access to the bay of those marine organisms that depend upon it.

3. The UTCEARP must protect shoreline features that provide natural erosion protection like beaches, sand dunes, offshore sand replenishment areas, freshwater inflows that provide new sediment to the coastal shoreline system, and habitat for endangered species.

4. The UTCEARP must restore natural coastal shoreline system features like current sediment movement processes and remove obstacles to sediment movement and transport along the Upper Texas Coast.

5. The UTCEARP must ensure that adjacent and nearby areas do not have their shoreline erosion and accretion negatively impacted or their risk increased by implementation of the UTCEARP.

6. The UTCEARP must ensure that the Texas Open Beaches Act public “rolling easement” and access for public recreation, protection of existing public lands, and other purposes is not diminished.

7. The UTCEARP must assess and determine the environmental impacts and mitigation of these impacts due to any encouragement of additional development in flood and storm prone areas along the Upper Texas Coast caused by the implementation of the UTCEARP.

8. The UTCEARP must protect the scenic beauty of Galveston Island, Bolivar Peninsula, and the Upper Texas Coast.

9. Any UTCEARP must not encourage further development on more vulnerable natural coastal areas and areas that are more flood and storm prone (like West
Environmental and Conservation Groups Raise Concerns About Current USACE Plan

December 21, 2018

American Bird Conservancy, Artist Boat, Bayou City Waterkeeper, Defenders of Wildlife, Galveston Bay Foundation, Gulf Restoration Network, Houston Audubon, Houston Sierra Club, Sierra Club’s Lone Star Chapter, National Wildlife Federation, Save Buffalo Bayou, Surfrider Foundation Galveston, Surfrider Foundation South Texas, Surfrider Central Texas, Turtle Island Restoration Network

Response to Coastal Barrier Alternative

Environmental and Conservation Groups Raise Concerns About Current USACE Plan

Together with conservation groups across the Greater Houston-Galveston region, we offer these comments and concerns to the US Army Corps of Engineers (USACE), General Land Office (GLO), and the decision-makers who support the currently proposed Coastal Spine across Galveston Island, Bolivar Peninsula, and Bolivar Roads.

In October 2018, the Army Corps of Engineers released its Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the Coastal Texas Protection and Restoration Study, outlining its selected plan for the Galveston-Bolivar Coastal Barrier project. The selected Coastal Barrier Alternative—previously designated Alternative A during the alternatives analysis phase—primarily focuses on hard infrastructure consisting of floodwalls, floodgates, and surge barrier gates along and between Galveston Island and Bolivar.

Throughout the scoping process, many organizations have consistently raised concerns about the impacts to the ecology and overall health of Galveston Bay and its surrounding communities. Unfortunately, the Coastal Study and DIFR-EIS have not adequately addressed these issues. Our collective concerns are premised on the following:

The information provided in the Feasibility Report and Environmental Impact Statement is insufficient to enable thorough and informed comments. In particular:
• No clear indication of where the various structures will be placed, which seriously affects current residents and business-owners; and
• Few details on the overall impacts that affect commercial/recreational fisheries and coastal wildlife habitat; and,
• Concerns regarding the accuracy of ecosystem modeling and the subsequent impacts to people, property, and the environment.

Representatives from the USACE and GLO have consistently indicated that the Coastal Barrier Alternative placement is “just a line on the map.” Recently a representative of the USACE stated that the Coastal Barrier is “only at 10% design.” (Galveston Daily News, Dec. 4, 2018) Knowing the placement and understanding the full scope of the project are vital for evaluating the impacts to people, property, and the environment, as well as the effectiveness of the proposed Alternative. Without this information it is impossible for the public to complete an assessment of the Study and DEIS.

Throughout this process, groups have asked the USACE to consider practicable non-structural solutions such as preservation and enhancement of prairies, riparian areas, barrier islands, and wetlands, buyouts/strategic withdrawal from areas that cannot be adequately protected, and appropriate land-use regulation to implement those concepts. A multi-tiered approach that focuses on these kinds of measures can be incrementally applied in the short-term to help provide protection for our communities now—and reduce major harm to the natural resources on which our region is dependent.

We believe that any alternative, or combination of alternatives, must be fully analyzed for environmental impacts as well as cost-benefit ratios – and that in evaluating the alternatives, we must consider the long-term future effectiveness of our selected remedy. Given rapidly changing climatic conditions and their effect on the coastal area, we believe that the projection should extend to 2100.

We believe that the following principles must be applied in formulating a successful flood and storm surge protection strategy:

1. Public, Private and Corporate Responsibility

• An industrial facility should provide its own first line of defense. All industrial facilities in the Greater Houston area should be required to protect themselves from anticipated storm surge and flood waters. This will further protect the general public from releases of hazardous materials caused by flooding.
• Our political subdivisions must pass regulations that prevent development in floodways and floodplains. This will keep people out of harm’s way. To prevent contamination of surface water and disruption of essential services, authorities must not permit infrastructure, such as wastewater treatment plants or drinking water treatment plants, in the floodways and floodplains.
• Our development community must recognize that even a rare event, such as flooding from Hurricane Harvey, is an unacceptable disaster when thousands of people and billions of dollars in property have been deliberately placed in harm’s way for profit.

2. Preserve and Restore Riparian Capacity, Open Space and Barrier Islands

• Conserve lands that provide more open space and flood capacity, by either the purchase of lands or private conservation easements. Our bayous, given sufficient floodplain, are our natural storm drains and detention systems. Preserving these areas also provides the important secondary benefit of recreational green space.
• Preserving the lands obtained through buyouts of flooded homes and other structures, such as riparian green space, will also increase the capacity of our natural floodways and floodplains. Banning redevelopment of these acquired lands will also contribute to keeping people out of harm’s way.

• Preserving land on our barrier islands and along our Bayfront keeps people out of harm’s way and provides a buffer zone to naturally absorb storm surge. 2/3

3. Minimize Building Dams, and Dikes and Elevating Roads

• Dams, dikes, and raised roadways should only be employed where nonstructural alternatives are not feasible to protect lives and critical infrastructure from storm surge and flooding.

• Any proposed dams, dikes or elevated roads must be assessed for their potential to exacerbate local and regional flooding, as well as beach/coastal erosion.

• These structural alternatives work against nature. These types of structures may also have the secondary effect of encouraging development in vulnerable areas, effectively moving people into harm’s way.