Comments of the Lone Star Chapter of the Sierra Club on HB 478 and HJR 81 by Rep Dade Phelan - Submitted by Ken Kramer, Water Resources Chair, to the House Natural Resources Committee on Tuesday, March 5, 2019

The Sierra Club supports the passage of HB 478 and HJR 81, legislation to create a new state flood infrastructure fund to provide state financial assistance for structural and nonstructural projects for flood mitigation and drainage. 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. Passage of HB 478 and HJR 81 would be a significant step toward meeting that need.

We must be candid in stating that our support of this legislation comes with some misgivings: money from the new 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.

However, we recognize that new structural projects may be necessary in some local 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 buyouts of land and property in the floodplain where advisable and purchase of greenspace to maintain natural drainage and reduce flooding potential. As introduced, neither HB 478 nor HJR 81 have explicit language
authorizing use of the fund for “acquisition of land, easements, or other property for nonstructural flood mitigation and drainage.”

Sierra Club, therefore, recommends that the proposed new Texas Water Code Section 15.531 in HB 478, defining what constitutes a “flood control 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. Similarly, we recommend that the same language be added to HJR 81 in the enumeration of items for which the new flood infrastructure fund may be used.

This revision is critical to ensuring that all nonstructural alternatives are given serious consideration in the implementation of the new fund.

In conclusion, the Sierra Club wants to emphasize that establishing a new flood mitigation funding mechanism is only one part of what needs to be a truly comprehensive and effective approach to addressing flooding issues in Texas. That approach must include adequate funding to the Texas Water Development Board to enhance our scientific understanding of flooding and for the agency to carry out its other flood responsibilities, an enhanced flood planning process on a watershed basis, 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.

In other words, HB 478 and HJR 81 are important ways of advancing flood management, but they are only part of the solution. Nevertheless, with the additional language that we have suggested, this legislation has the potential to provide the critical thing often lacking in tackling a major issue successfully: funding.

Thanks for the opportunity to submit these comments.