

“...Better Business ...Better Environment...”

**E-Mail Update
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The year 2007 saw increased interest in carbon capture and storage throughout Texas. The year opened with the start of the 80th Session of the Texas Legislature and concluded with the announcement of the site for the proposed FutureGen Project. Between these events were many exciting developments including the formation of the *Texas Carbon Capture and Storage Association* (TxCCSA). This year, 2008, promises to be equally, if not more, eventful.

House Interim Study Charges Released

In December 2007, the Speaker's Office issued the Interim Study Charges for the Texas House of Representatives. Although the Texas Legislature meets every two years, interim charges occupy lawmakers with items of statewide importance during the years between legislative sessions. Interim charges are items to be specifically studied by legislative committees in preparation for the upcoming legislative session, which will convene in January 2009. Interim charges are important policymaking tools and during 2008, the House and Senate committees will meet and hear testimony on the issues they were charged to study. Each committee will then prepare a report based on its findings related to each charge.

Interim charges are developed through recommendations from lawmakers and other elected officials. This year, the Speaker charged the House Energy Resources Committee with examining **“whether the Railroad Commission of Texas should regulate carbon capture and storage.”** This charge is the result of considerable effort on the part of TxCCSA to raise the awareness of CCS issues with state elected officials. Legislation to regulate the siting, certification, and requirements of CCS sites is likely to be examined and proposed as a result of this interim charge. TxCCSA will be actively engaged in this process throughout 2008. Upcoming TxCCSA meetings will seek to develop legislative proposals for consideration by lawmakers.

FutureGen or Bust

On Tuesday, December 18, 2007, the FutureGen Industrial Alliance announced that the \$1.8 billion experimental pollution-free coal burning power plant will be built in Mattoon, Ill.

Prior to the announcement two Texas sites – Jewett and Odessa – were being considered as possible locations.

The process of informing the Texas sites began at 8:00am on Tuesday, when Chairman of the Texas Railroad Commission, Michael Williams received the long-awaited call from Alliance officials. Disappointed, yet optimistic, Chairman Williams went forth with a planned press-conference. During the press conference, Chairman Williams mentioned the creation of the *Texas Carbon Capture and Storage Association* when asked how competition for the FutureGen Project had changed Texas. He said that the creation of TxCCSA was a direct result of FutureGen in that companies identified Texas as a location working for CCS and as a result came together to form the *Texas Carbon Capture and Storage Association*.

Despite the disappointing news, officials who were hoping to land FutureGen began making plans to pave the way for Texas based projects. Chairman Williams suggests that the resources and incentives developed for the federal FutureGen Project be dedicated to state-based “FutureGen-Like projects” that focus on early commercial projects and research and development. According to Chairman Williams, “if we can do it once (legislation to promote FutureGen) we can do it again.” Look for proposals to allow companies to build their own commercial-size gasification plants using incentives previously offered to FutureGen, such as franchise tax credits, expedited permitting and liability protection.

CCS State Certification

Texas officially has the first state certification program for carbon capture and storage. On January 7, 2008 new rules implementing HB 3732 went into effect creating the first in the nation state certification for CCS. HB 3732 required oil and gas operators to receive state certification of the storage of anthropogenic CO₂ before obtaining a reduction in the severance tax on the amount of oil produced from an enhanced oil recovery operation. The certification is not mandatory but is available from either the Texas Railroad Commission or the Texas Commission on Environmental Quality should an operator choose to apply for the additional severance tax reduction.

The RRC rules safeguard citizens and promote commercial development by avoiding burdensome regulatory requirements. Rather than proscribing the monitoring and verification technology required at every site, the RRC rules allow operators to propose monitoring and verification measures on a case-by-case basis subject to the geology and requirements of a particular field. To receive the state certification, an operator must describe the historical release of anthropogenic CO₂ at the source facility, describe the method of capture and measurement of the anthropogenic CO₂ captured at the source, and describe the planned sequestration program including the monitoring and verification measures to be used. The Commission expects to see

its first applications in the first quarter of 2008. For more information contact Darrick Eugene, General Counsel at 512.542.8814.

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