region6news

Monday, September 18, 2017

Arkansas, Louisiana, New Mexico, Oklahoma, Texas, and 66 Tribal Nations

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# *Around the Region:*

**1 EPA union told critical Houston lab may close, CNN, 9/16/17**
http://www.cnn.com/2017/09/15/politics/epa-houston-hurricane-harvey/index.html
An Environmental Protection Agency lab in Texas that's assisted with the response to Hurricane Harvey may close, the president of a union representing dozens of employees says. Clovis Steib, the president of the American Federation of Government Employees local 1003, told CNN the roughly 50 EPA employees at the lab -- including chemists, biologists and air, water and hazardous waste inspectors -- were told in April that the agency would not renew the lease for the building when it expires in 2020.

**2 WHERE DO THEY PUT ALL THAT TOXIC HURRICANE DEBRIS?, Wired, 9/17/17**
https://www.wired.com/story/where-do-they-put-all-that-toxic-hurricane-debris/
HURRICANES HARVEY AND Irma left a hell of a mess—millions of tons of debris, much of it toxic. Houston officials said this week it will cost at least $200 million to dispose of 8 million cubic yards of storm debris. More than 100,000 homes in Houston are damaged. Irma caused billions of dollars of damage across the Caribbean and southeastern United States. Wood, plaster, drywall, metal, oil, electronics—all of it waterlogged. Put it into unlined landfills and it can contaminate groundwater.

**3 Cancer-causing chemicals appear to spread in regional aquifer near LANL, Santa Fe New Mexican, 9/15/17**
http://www.santafenewmexican.com/news/local_news/cancer-causing-chemicals-appear-to-spread-in-regional-aquifer-near/article_7f368ea7-120c-57fe-ade7-aa6561db190a.html
For more than a decade, a vast, mile-wide, below-ground plume of cancer-causing chemicals has encroached on the regional aquifer that rests below Los Alamos National Laboratory. The lab has said it is working to contain the contamination and prevent it from entering tribal land or further polluting a water supply relied on by residents from Los Alamos to Albuquerque. But according to new data, the plume — resulting from decades of lab workers dumping contaminated water into a canyon — may be continuing to spread.

**4 Joint Superfund site marks fifth anniversary, Las Cruces Sun, 9/16/17**
http://www.lcsun-news.com/story/news/local/2017/09/16/joint-superfund-site-marks-fifth-anniversary/673958001/
On Thursday, Sept. 21, Las Cruces Utilities (LCU) will celebrate a fifth anniversary milestone at the Griggs and Walnut Joint Superfund Project. You are invited from 10 a.m. to 2 p.m. for refreshments, tours and information explaining how the air stripping technology works to clear a contaminant plume of the chemical perchloroethylene (PCE) from our groundwater.

**5 EPA demands Valero records on Houston refinery emissions release, Chron, 9/15/17**
http://www.chron.com/business/energy/article/EPA-demands-Valero-records-on-Houston-refinery-12200878.php
The enforcement division of the U.S. Environmental Protection Agency is demanding Valero Energy's records and maintenance history related to a storage tank roof failure after Hurricane Harvey that released cancer-causing

benzene and other volatile compounds into the air. The EPA records request to Valero - a response is legally required - comes as the EPA said San Antonio-based Valero Energy "significantly underestimated" the amount of benzene and other compounds leaked during Harvey's torrential rains.

**6 This Louisiana coastal community fought to get running water; now it might drown, Times Picayune, 9/17/17**
http://www.nola.com/environment/index.ssf/2017/09/louisiana_coast_ironton_might_drown.html#incart_river_index
The minister inhaled into the microphone. His body arched over the pulpit as he readied himself to bellow the teachings of the gospel. "There is light in life. Wherever Jesus goes, the darkness flees," Irvin Ross exhaled. "Y'all know that Jesus is the light of the world. And if you're walking with Jesus this morning, you're walking in light. ... And if you're not walking with Jesus this morning, you're walking on the wrong side of the road."

**7 Guarded Hope At Oklahoma's Abandoned Mine As EPA Promises Focus On Contaminated Sites, NPR, 9/15/17**
https://stateimpact.npr.org/oklahoma/2017/09/15/guarded-hope-at-oklahomas-abandoned-mine-as-epa-promises-focus-on-contaminated-sites/
Newly minted U.S. Environmental Protection Agency Administrator Scott Pruitt spent his first months on the job steering the agency away from climate change to focus, in part, on cleaning up contaminated sites around the country. The former Oklahoma attorney general has directed a task force to create a top-10 list of locations that need aggressive attention — welcome news at Superfund sites like Tar Creek in the northeastern corner of the state.

**8 Trump's air pollution pick goes before senate at critical moment, Chron, 9/18/17**
http://www.chron.com/business/energy/article/Trump-s-air-pollution-pick-goes-before-senate-at-12201542.php
Expect some fierce questioning when President Donald Trump's pick to head the EPA's air pollution division gets his confirmation hearing Wednesday before the Senate Committee on Environment and Public Works. A partner in the D.C. law firm Hunton Williams, Bill Wehrum is no stranger to EPA - he served in the agency under former President George W. Bush.

**9 PERMIAN FRAC SAND: IF WE MINE IT, WILL THEY COME?, Texas Standard, 9/15/17**
http://www.texasstandard.org/stories/categories/energy-environment/
There's a natural resource sitting above ground in oil-rich West Texas that's in high demand this summer. Millions of tons of it, in fact. A field of sand dunes extends 200 miles in a crescent from New Mexico through the booming Permian Basin. Now the oil industry has taken a special interest in this sea of windblown formations. Outside of a loading facility in Odessa, Texas, Molly Sizer opens up the trailer hatches on top of her red International Eagle 18-wheeler. Her trailer is empty now, but soon it will hold 50,000 pounds of sand.

**10 Tracking Harvey's financial toll: New damage estimate rises to nearly $200 billion, Dallas Morning News, 9/14/17**
https://www.dallasnews.com/news/harvey/2017/09/12/tracking-harveys-financial-toll-new-damage-estimate-rises-nearly-200-billion
Two university researchers who study flood damage are out with a new estimate that would establish Hurricane Harvey as the costliest storm in U.S. history. Michael Hicks of Ball State University and Mark Burton of the University of Tennessee predict damage to homes, businesses and public instructure along the Texas Gulf Coast will end up costing roughly $198 billion. That exceeds the price tag they put on Hurricane Katrina, which in today's dollars would have totaled $194 billion.

**11 Can system be unclogged? 3,200 East Baton Rouge drainage complaints pending, some never to be addressed, Advocate, 9/16/17**
http://www.theadvocate.com/baton_rouge/news/environment/article_c3efc740-97d7-11e7-b2a1-976983d5755d.html
When a Baton Rouge resident asks the city-parish to clear a ditch, haul debris from a canal or fix the eroding bank of a bayou, they may face a wait, if their call is ever answered at all. The number of open drainage complaints in east Baton Rouge continues to climb, and has swelled to about 3,200, according to city-parish staff.

**12 This Louisiana coastal community fought to get running water; now it might drown, Times Picayune, 9/17/17**
http://www.nola.com/environment/index.ssf/2017/09/louisiana_coast_ironton_might_drown.html
The minister inhaled into the microphone. His body arched over the pulpit as he readied himself to bellow the teachings of the gospel. "There is light in life. Wherever Jesus goes, the darkness flees," Irvin Ross exhaled. "Y'all know that Jesus is the light of the world. And if you're walking with Jesus this morning, you're walking in light. ... And if you're not walking with Jesus this morning, you're walking on the wrong side of the road."

## *Hurricane Response:*

**13 Hurricane Harvey left Houston residents breathing benzene, Red Green and Blue, 9/18/17**
http://redgreenandblue.org/2017/09/18/hurricane-harvey-left-houston-residents-breathing-benzene/
As a longtime resident of Manchester, Guadalupe Hernandez is used to the chemical smells that waft through his southeast Houston, Texas neighborhood, a low-income, predominantly Hispanic community near a Valero Energy refinery. But when Hurricane Harvey blew in the weekend of Aug. 26, the stench became noticeably stronger for about five hours, a scent like “glue or boiled eggs,” he said. The Environmental Protection Agency has assured the public they looked into complaints in the area a week after the storm hit, and spent several days taking air pollution measurements with a mobile laboratory. The agency didn’t release any specifics, but said concentrations of several toxic chemicals, including the carcinogen benzene, met Texas health guidelines.

**14 Why Hurricanes Harvey and Irma won't lead to action on climate change, San Fran Chron, 9/17/17**
http://www.sfchronicle.com/news/article/Why-Hurricanes-Harvey-and-Irma-won-t-lead-to-12204964.php
It’s not easy to hold the nation’s attention for long, but three solid weeks of record-smashinghurricanes directly affecting multiple states and at least 20 million people will do it. Clustered disasters hold our attention in ways that singular events cannot – they open our minds to the possibility that these aren’t just accidents or natural phenomena to be painfully endured. As such, they can provoke debates over the larger “disaster lessons” we should be learning. And I would argue the combination of Harvey and Irma has triggered such a moment.

**15 As a result of Hurricane Harvey, 600 more Texas prisoners getting AC, KVUE, 9/17/17**
http://www.kvue.com/news/local/texas-news/as-a-result-of-hurricane-harvey-600-more-texas-prisoners-getting-ac/475722932
Thanks to Hurricane Harvey, about 600 more Texas prisoners are set to get a break from the sweltering Texas heat. The inmates had been evacuated from the flood-prone Stringfellow Unit ahead of the storm. But Texas prison officials, scrambling to get the inmates to safety, sent them to the notoriously hot (though dry) Wallace Pack Unit in Navasota.

**16 New Insurance Law Takes Effect September 1, Just in Time for Harvey Aftermath, SM Corridor News, 9/18/17**
https://smcorridornews.com/new-insurance-law-takes-effect-september-1-just-in-time-for-harvey-aftermath/

In the days since Hurricane Harvey hit, social media posts regarding insurance claims and the recently passed House Bill 1774 have spread like wildfire. Plaintiff's lawyers paint it as an attempt to protect the powerful insurance companies, while insurance companies portray it as a deterrent to rampant insurance fraud. Either way, many are left wondering if and how they will be affected.

**17 Texas Cities Struggle to House Thousands Displaced by Hurricane Harvey, Wall Street Journal, 9/17/17**
https://www.wsj.com/articles/texas-cities-face-housing-crunch-in-the-wake-of-hurricane-harvey-1505675501
Lillian Godfrey has been sleeping on an air mattress on the floor of her friend's shuttered night club, alongside her daughter and two pool tables, ever since floodwaters swept into her home here last month. Ms. Godfrey, 74 years old, has a federal voucher for a hotel, but hasn't had any luck finding a room nearby.

**18 Is San Antonio Ready For A Harvey-Strength Storm? KSTX, 9/18/17**
http://tpr.org/post/san-antonio-ready-harvey-strength-storm#stream/0
San Antonio was spared the full force of Hurricane Harvey, leading locals to ask the question: What would have happened if the storm hit closer to home? The Texas Hill Country is already referred to as "Flash Flood Alley," prone to retaining water after excessive rain.

**19 Crossroads homes built to withstand Hurricane Harvey, Victoria Advocate, 9/18/17**
https://www.victoriaadvocate.com/news/2017/sep/17/crossroads-homes-built-to-withstand-hurricane-harv/
The day after Hurricane Harvey hit, a feeling of relief filled Chris Kovarek's mind when she and her husband, Mike Kovarek, saw a video from their friend showing their 1,500-square-foot house unscathed. "I was amazed," she said. "I was scared to death. What in the world were we going to drive up to? Seeing that video, it seriously looked liked any day at our house."

**20 Analysis: In Harvey, Abbott finds focus in the eye of the storm, Texas Tribune, 9/18/17**
https://www.texastribune.org/2017/09/18/analysis-harvey-abbott-finds-focus-eye-storm/
You don't want to call a major disaster a political boon, but Hurricane Harvey blew away some of Texas Gov. Greg Abbott's distractions while coinciding with a reboot in the office he wants to hold for another four years.
The storm is now the central concern of what has often been an unfocused administration. It also shifted the spotlight away from the most prominent alternative to his leadership — Texas Lt. Gov. Dan Patrick, a conservative favorite of some of the GOP's most outspoken activists.

**21 Harvey oddities: The weird part of the storm, Victoria Advocate, 9/18/17**
https://www.victoriaadvocate.com/news/2017/sep/17/harvey-oddities-the-weird-part-to-the-storm/
One day in August, Kathy Brooks forgot to bring in her laundry basket from outside her Edna home after putting clothes to dry on her clothesline. She didn't think about the ordinary household item again until right after Hurricane Harvey hit Jackson County on Aug. 25, when she looked out her bathroom window before heading to work in Ganado.

# EPA union told critical Houston lab may close

By Rene Marsh, CNN

Updated 1:38 PM ET, Fri September 15, 2017

**Large fire at Texas chemical plant** 00:47

**(CNN) —** An Environmental Protection Agency lab in Texas that's assisted with the response to Hurricane Harvey may close, the president of a union representing dozens of employees says.

Clovis Steib, the president of the American Federation of Government Employees local 1003, told CNN the roughly 50 EPA employees at the lab -- including chemists, biologists and air, water and hazardous waste inspectors -- were told in April that the agency would not renew the lease for the building when it expires in 2020.

EPA offices nationwide have been directed to reduce the amount of leased space at "all other regional and headquarters offices" in order to meet "budget reduction needs," according to an internal agency memo obtained by CNN.

The EPA acknowledges the Houston lease will end but says it's looking at future options. A spokesperson who declined to speak on the record said the lab "is too big and is more space than EPA needs," and insisted the staffing level would remain the same wherever the new lab is located. But nothing has yet been set.

The San Antonio Express-News reported on the planned closure this week.

**Related Article:** Sewage, fecal bacteria in Hurricane Harvey floodwaters

Coastal Texas has the highest concentration of oil refineries and chemical plants in the United States. After many sites were flooded, the EPA lab in Houston took air, soil and water samples to test for dangerous contaminants and the lab continues to do so.

After explosions at the Arkema chemical plant in Crosby, Texas, Steib said it was scientists at the lab who sampled the air and water. The union says shuttering the EPA Region 6 lab will impede the agency's future ability to respond to man-made and natural disasters in Texas and surrounding areas."

"The scientists in this lab test the quality of the environment in the region," Steib said. "They will be a part of determining when it is safe for storm victims to return to the area, especially neighborhoods near toxic chemical plants and contaminated Superfund sites."

Aside from Texas, the lab covers New Mexico, Oklahoma, Arkansas and Louisiana but primarily serves the Texas and Louisiana Gulf Coast because of the high concentration of petrochemical facilities.

Steib said managers explained the news about the building closing to the employees by saying they had exhausted their search for another suitable site and found no alternative options.

But because the employees were not told what the alternative plan was and "EPA didn't mention the lab would be relocated," Steib said there was no other conclusion to draw other than their jobs were in jeopardy and the lab would fold.

**Related Article:** EPA chief on Irma: The time to talk climate change isn't now

As the deadline approaches for the lab's lease to expire in 2020, "the folks in the Houston lab are in limbo; they're waiting for the shoe to drop. It's like being on death row," Steib said. He added that EPA management in Dallas said the directive from headquarters was to reduce leasing properties across the entire agency.

EPA spokesman David Gray said the agency's "only action that we have announced is that we are not renewing our current leased laboratory space in Houston. We are approaching the renewal deadline for our existing lease and needed to make that information public.

"We are looking at alternatives that will continue to provide the analytical services to support our mission-critical work in the Dallas office," he added.

Steib rejected that response.

"That's not what they told EPA employees. I have 50 witnesses. This is a lab that's in the back yard of chemical companies -- of course they want this lab closed," Steib said.

He added that a new space would have to be retrofitted for all of the EPA's equipment, which includes infrastructure for fire suppression and special ventilation.

"You can't just move like you move an apartment. The new space would need to be (Occupational Safety and Health Administration) certified. It's quite the undertaking that takes time and money."

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# WHERE DO THEY PUT ALL THAT TOXIC HURRICANE DEBRIS?

Damaged homes and streets littered with debris are seen after Hurricane Irma passed through Key West, FL on September 13, 2017. JOE RAEDLE/GETTY IMAGES

HURRICANES HARVEY AND Irma left a hell of a mess—millions of tons of debris, much of it toxic. Houston officials said this week it will cost at least $200 million to dispose

damaged. Irma caused billions of dollars of damage across the Caribbean and southeastern United States.

Wood, plaster, drywall, metal, oil, electronics—all of it waterlogged. Put it into unlined landfills and it can contaminate groundwater. The gypsum in drywall decomposes into hydrogen sulfide gas. And it might all get thrown away together anyway.

“No one is interested in separating garbage after a hurricane,” says Elena Craft, a senior scientist at the Environmental Defense Fund in Austin. “But there are real threats that exist from this process.”

Commission on Environmental Quality this week to talk about debris disposal. "It sounded like [the state] was relying on landfill operators to be vigilant," Craft says. "The state does not do the best job of active surveillance. It's nice to think that everyone is doing the right thing, but sometimes they don't."

Case in point: Versailles, Louisiana. After Hurricane Katrina in 2005, Louisiana state environmental officials were so overwhelmed with construction debris that they opened up a new landfill next to the low-income Vietnamese community of Versailles. The dumping continued despite protests, and years later local residents found medical waste, oil cans, and electronics—stuff that was supposed to be sent to more protective sites. Chronicled in a PBS documentary, the Versailles landfill didn't have a synthetic liner underneath or water-monitoring equipment.

Under the Obama administration, the EPA was working on a plan to incorporate climate change scenarios into planning for disposal of toxic material and protecting Superfund sites from big storms. "Increased frequency and intensity of extreme weather events may affect EPA's capacity to manage debris and respond to emergencies," the report stated. And last year, the Office of the Inspector General released a report that EPA officials didn't have a good idea of what state officials were doing to prepare for post-disaster waste disposal.

A new post-hurricane analysis by the Union of Concerned Scientists shows 650 energy and industrial facilities in Texas flooded by Harvey, where toxic runoff could pose a risk to local residents.

What happens now in Florida and Texas will depend on the decisions that state officials make in the coming weeks. "What we saw during Hurricane Katrina was a lot of waivers issued by EPA and activity that was technically illegal," says Adam Babich, professor of environmental law at Tulane University. The waivers are a legal way to allow state agencies to temporarily violate federal law without facing enforcement by the EPA.

Local officials could mix different kinds of waste without fear of prosecution for violating federal hazardous waste laws. That sometimes leads to long-term risk to

emergency," he says. "Other times you are trying to do it faster than you would otherwise, or to save money. Where those lines are drawn is something we can debate."

In Florida, state emergency officials are still working to restore power and other basic services to millions of people hit by the storm. As yet Florida officials haven't asked for a statewide waiver to allow solid waste facilities to accept waste categories outside of their permit, but they will consider waivers on a case by case basis, according to Sarah Shellabarger, a spokeswoman for the Florida Department of Environmental Protection in Tallahassee.


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Florida is asking residents to report storm debris to a graphic web portal that went up Friday showing reports from around the state. Marianna Huntley of Ormond Beach reported a "wrecked boat sitting upside down next to my dock leaking oil and fluids into the river" while other people reported smashed wooden piers, junked jet skis and "trees 60 to 80 feet long and as big around as car tires."

WIRED asked the EPA press office whether the agency plans to grant waivers to Texas and Florida on dumping rules, whether it has state debris response plans, and whether the agency is incorporating climate change into disaster preparedness. As of Friday afternoon, the agency had not responded.

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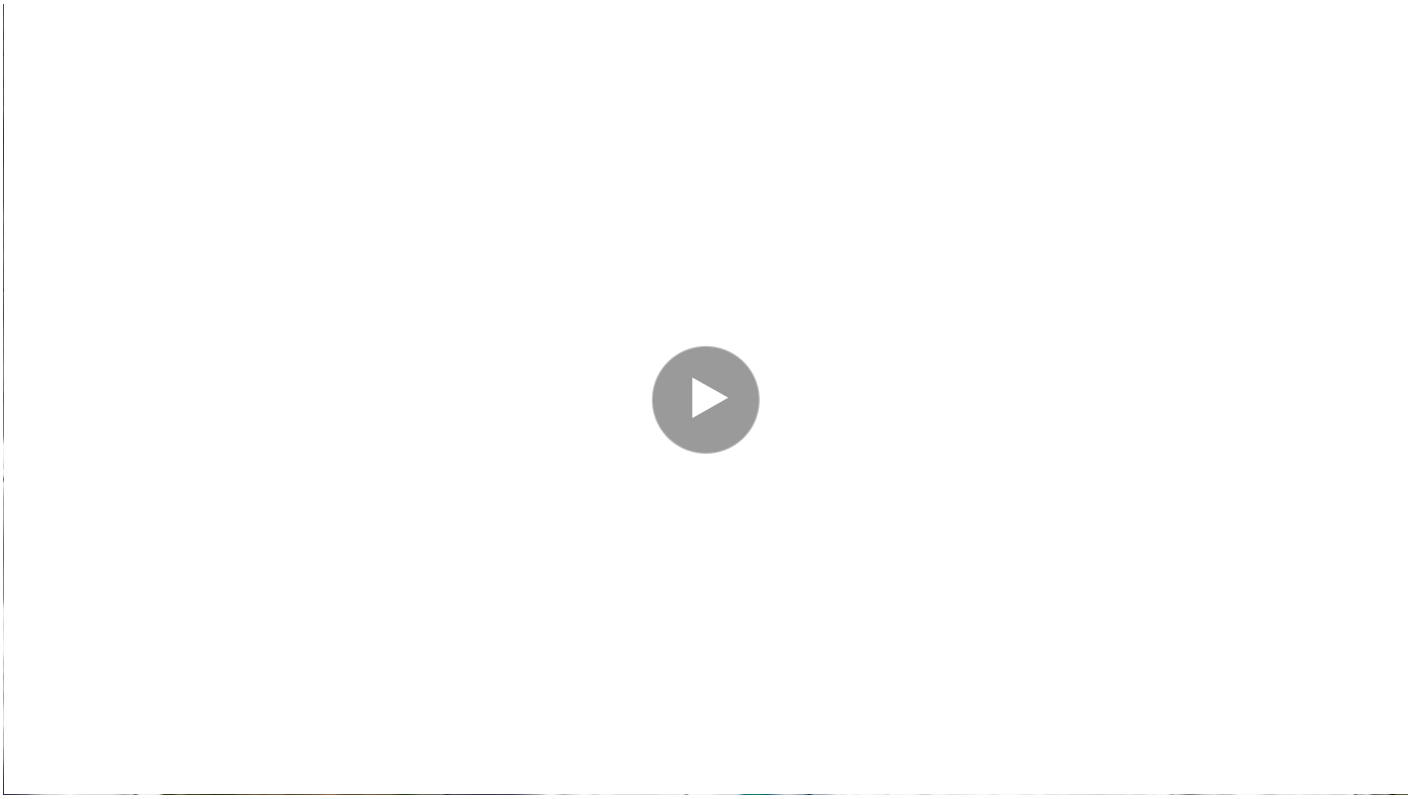

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# Cancer-causing chemicals appear to spread in regional aquifer near LANL

By Rebecca Moss | The New Mexican Sep 15, 2017 Updated Sep 15, 2017

For more than a decade, a vast, mile-wide, below-ground plume of cancer-causing chemicals has encroached on the regional aquifer that rests below Los Alamos National Laboratory. The lab has said it is working to contain the contamination and prevent it from entering tribal land or further polluting a water supply relied on by residents from Los Alamos to Albuquerque.

But according to new data, the plume — resulting from decades of lab workers dumping contaminated water into a canyon — may be continuing to spread.

In July, the level of chromium in the groundwater in an area outside the plume, believed to be free of contamination, was detected at more than five times the state limit.

A lab spokesman said he was unable to respond to questions about the plume by deadline but would have a response Monday.

The well in question, labeled CrIN-6 in lab documents, was drilled in early 2017 to serve as an “injection” well. Workers would use it to pump out contaminated water, treat the water and then pump the clean water back underground. A cleanup plan for the plume of contamination says roughly 230 million gallons should be “pumped and treated” each year.

In 2016, John Keiling, director of the state Environment Department's Hazardous Waste Bureau, told the lab to move the new well farther from the plume, and not near the edge or within the center of it, which the lab originally proposed.

"Injection of treated groundwater at this location will likely induce downward and lateral spreading of high concentrations of hexavalent chromium and other contaminants," he wrote.

Allison Majure, a spokeswoman for the New Mexico Environment Department, also did not respond to questions Friday about the water contamination.

Water sampling from the wells within and surrounding the plume indicate a high number of chemicals and radioactive elements, but the most troubling threat to human health has been the high concentration of hexavalent chromium, a known carcinogen targeting the liver, skin, eyes and kidneys, according to the Occupational Health and Safety Administration.

Readings taken by the lab July 16 and 17, and recorded in the public online database Intellus New Mexico, found the CrIN-6 well had levels of chromium ranging from between 247 and 262 micrograms per liter.

There are different kinds of chromium, but hexavalent chromium, or chromium 6, is the most toxic.

The state says total chromium cannot exceed 50 migrograms per liter or 50 parts per billion. The U.S. Environmental Protection Agency allows 100 micrograms per liter. But a number of scientists and legal advocates say the limit for hexavalent chromium should be much lower. The chemical was the subject of a class-action lawsuit in California that was the inspiration for the 2000 feature film Erin Brockovich.

California's legal limit is 10 parts per billion. And in 2011, the California Office of Health Hazard Assessment set a "health goal," which is not legally enforceable, saying utilities should limit the amount of hexavalent chromium in drinking water to less than 0.02 parts per billion. At that rate, one person out of a million would get cancer over a lifetime, according to a study conducted by the National Toxicology Program.

Roughly 90 percent of New Mexico residents rely on groundwater as drinking water.

The Los Alamos Municipal Water System has 4.45 parts per billion of hexavalent chromium in its water, according to data collected by New Mexico and the EPA, and published in a database by the Environmental Working Group, a Washington D.C.-based nonprofit that has advocated for stricter drinking water standards.

While its level of hexavalent chromium is still significantly below the state limit, Los Alamos has roughly six times more of the substance in its water supply than the national average.

Most of the wells on the outside perimeter of the Los Alamos plume, with the exception of CrIN-6, have a chromium level ranging between 4 and 11 parts per billion. But within the plume, levels are significantly higher. One well inside the plume had more than 1,000 parts per billion of chromium in 2013, and as of July 28, it still had alarmingly high levels, detected at 793 micrograms per liter, according to data pulled by The New Mexican from Intellus New Mexico.

A map published by the lab in May shows the kidney-shaped plume pushing up against the boundary of San Ildefonso Pueblo property, but not encroaching on it. In May, 4.7 parts per billion of chromium were detected in the only sampling well on San Ildefonso land, which is south of the plume.

The plume is the result of negligent waste disposal at the lab dating back to the 1950s. For two decades, ending in 1972, lab workers routinely dumped water from cooling towers down into Sandia Canyon. But because the water was first pumped through the pipes of an old power plant, it was contaminated by significant amounts of hexavalent chromium, which is added to alloy steel to prevent corrosion. An estimated 160,000 pounds of hexavalent chromium was released between 1957 and 1972, the Department of Energy said.

From Sandia Canyon, the water traveled several miles into Mortandad Canyon and seeped into the earth, pooling into an underground plume of contamination discovered by the lab in 2005. Two years later, the lab paid the Environment Department more than $250,000 as a result of the contamination for levels of chromium detected at eight times the state's groundwater standard.

About 1,000 feet below ground, the plume of hexavalent chromium in the groundwater was measured at a mile long, a half-mile wide, and 100 feet thick as of 2014.

The lab has said it will treat the plume by pumping and treating contaminated water, as well as injecting a molasses mixture into wells, which reacts with the hexavalent chromium, changing it into a less toxic form of the element, chromium 3.

This is expected to cost more than $180 million and require ongoing treatment until 2048, according to a 2016 report.

Nuclear Watch New Mexico, which first discovered the high levels of chromium in CrIV-6, called the plume a serious threat to New Mexico's water resource.

"The remediation is turning out to be this decadeslong, or longer process, of investigating exactly where the plume is," said Scott Kovac, director of operations and research for Nuclear Watch. "The geology under Los Alamos is so complicated, anybody that says they know what's happening under there is taking liberties."

Kovac said the high levels of chromium indicate the plume may be growing more rapidly than the lab anticipated and may result in higher costs, as well as a longer time frame, to clean up the widespread pollution.

"It is easy for data to get buried and never see the light of day in the Lab's contamination database," he added in a statement. "LANL should proactively keep the public continuously informed of important new developments."

Contact Rebecca Moss at 505-986-3011 or rmoss@sfnewmexican.com.

# Joint Superfund site marks fifth anniversary

Suzanne Michaels, For the Sun-News Published 2:43 p.m. MT Sept. 16, 2017

*(Photo: Courtesy photo)*

On Thursday, Sept. 21, Las Cruces Utilities (LCU) will celebrate a fifth anniversary milestone at the Griggs and Walnut Joint Superfund Project. You are invited from 10 a.m. to 2 p.m. for refreshments, tours and information explaining how the air stripping technology works to clear a contaminant plume of the chemical perchloroethylene (PCE) from our groundwater.

"The site is considered a major success in cleaning up a contaminant spill," explains Water Administrator Adrienne L. Widmer, P.E. "To date, more than 528,090,000 gallons of groundwater have been extracted from the PCE plume and more than 46 pounds of PCE have been removed from the extracted groundwater."

The Joint Superfund Project has a history stretching back to 1993. That's when trace amounts of the PCE were first detected in two city water wells near the intersection of Griggs and Walnut Streets. The wells were taken offline and out of the water distribution system. By 2001, the Griggs and Walnut Superfund site was listed with the EPA, which coordinated with the city and county in modeling the PCE plume and assessing how to best treat the water to bring the affected portion of the aquifer back into a clean state.

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In August 2012, thanks to the joint efforts of the Environmental Protection Agency (EPA), the city of Las Cruces, Doña Ana County, and the New Mexico Environment Department (NMED), the Griggs and Walnut Joint Superfund water treatment plant went into full 24-hour-a-day production using air stripper technology.

"This project is functioning as designed, removing PCE, and putting the groundwater to beneficial use," explains Widmer. "We encourage the public to come and tour the treatment facility during our annual open house to see how it works and ask questions."

Total cleanup efforts are estimated to take 15 to 20 years, and cost an estimated $330,000 per year to operate and maintain the treatment system.

Once a year, LCU opens the doors of the Griggs and Walnut facility to the public. The entrance to the facility is off Walnut St., just north of Griggs Ave., and across the street from the Soldados Athletic Complex.

You can reach Las Cruces Utilities at 528-3500 from 8 a.m. to 5 p.m. Monday through Friday. Las Cruces Utilities provides gas, water, wastewater and solid waste services to almost 100,000 Las Cruces residents.

**Air-stripping technology is used at the Griggs and Walnut Groundwater Plume Superfund Site to remove PCE from the water.** *(Photo: Courtesy photo)*

Read or Share this story: http://www.lcsun-news.com/story/news/local/2017/09/16/joint-superfund-site-marks-fifth-anniversary/673958001/

http://www.chron.com/business/energy/article/EPA-demands-Valero-records-on-Houston-refinery-12200878.php

# EPA demands Valero records on Houston refinery emissions release

Jordan Blum, Houston Chronicle **Updated 12:22 pm, Friday, September 15, 2017**

A teenage girl walks around the track of a park across the street from the Valero refinery Monday, Aug. 4, 2014, in the Manchester neighborhood of Houston. (AP Photo/Pat Sullivan)

The enforcement division of the U.S. Environmental Protection Agency is demanding Valero Energy's records and maintenance history related to a storage tank roof failure after Hurricane Harvey that released cancer-causing benzene and other volatile compounds into the air.

The EPA records request to Valero - a response is legally required - comes as the EPA said San Antonio-based Valero Energy "significantly underestimated" the amount of benzene and other compounds leaked during Harvey's torrential rains. The letter shows the EPA is choosing to further investigate the accident near East Houston's Manchester neighborhood.

Valero initially reported the Aug. 27 leak from a partially collapsed roof of a storage tank released an estimated 6.7 pounds of benzene and more than 3,350 pounds of unspecified volatile compounds. The EPA now says Valero believes it significantly underestimated the volumes leaked near the Manchester neighborhood.

New totals won't be released until the EPA says it has completed its investigation. The EPA said Valero is preparing a new report that will show a "substantial increase" in emissions from the incident.

Valero did not immediately respond to a request for comment.

Benzene is a dangerous component of crude oil and gasoline that can evaporate into the air and potentially swirl into neighborhoods.

**RELATED: Valero "significantly underestimated" benzene leak at Houston refinery**

The EPA records request submitted Thursday to Valero asks for a specific timeline of the incidents related to "Tank 3 and Tank 228" at the refinery, showing there were issues with at least two storage tanks. The EPA letter specifically cites roof issues with Tank 3 and roof drain problems for Tank 228.

The EPA is asking for detailed calculations of any emissions and releases and the efforts taken to prevent and mitigate against any such issues both before and after the incident. The EPA is asking for any air monitoring data Valero collected, as well as for the calibrations of the monitoring equipment.

The request also asks for information on work done in advance of Harvey to protect against storm damages, as well as the routine maintenance work done on the storage tanks for inspections and seal gap measurements. Also of interest are any instances of emissions issues with the tanks prior to Harvey.

"The information requested must be submitted whether or not you regard part or all of it a trade secret or confidential business information," the letter states, although Valero can assert a business confidentiality claim on the information it provides to the EPA.

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AUDIO

# Guarded Hope At Oklahoma's Abandoned Mine As EPA Promises Focus On Contaminated Sites

SEPTEMBER 15, 2017 | 12:31 PM

BY JOE WERTZ

JOE WERTZ / STATEIMPACT OKLAHOMA

Rebecca Jim, executive director of the L.E.A.D Agency, at the nonprofit's headquarters in Miami, Okla.

Newly minted U.S. Environmental Protection Agency Administrator Scott Pruitt spent his first months on the job steering the agency away from climate change to focus, in part, on cleaning up contaminated sites around the country.

The former Oklahoma attorney general has directed a task force to create a top-10 list of locations that need aggressive attention — welcome news at Superfund sites like Tar Creek in the northeastern corner of the state.

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Guarded Hope at Oklahoma's Abandoned Mine ...
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4:53
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**Guarded Hope At Oklahoma's Abandoned Mine As EPA Promises Focus On Contaminated Sites**

The spot where Kansas, Missouri and Oklahoma meet was once one of the world's largest sources of lead and zinc. About half of the lead and zinc the military needed in World War I was produced here, in 300 miles of caverns hollowed out underneath towns like Picher, Cardin and Commerce.

In 1983, Tar Creek became one of the first sites added to EPA's Superfund list. The law helps identify sites contaminated by dangerous substances, prevents hazards and makes responsible parties pay for cleanup.

Tar Creek is one of the oldest sites on a list of roughly 1,330 Superfund sites across the country. It's large and has a lot of public health risks. It's the kind of cleanup EPA Administrator Scott Pruitt is signaling is a priority.

"There are many that have been on that National Priority List for decades, languishing for direction, leadership, answers," Pruitt told a U.S. House **subcommittee** in June.

JOE WERTZ / STATEIMPACT OKLAHOMA

Hills of mining waste known as 'chat' are scattered throughout the abandoned lead and zinc mine at the Tar Creek Superfund.

## TRUST EXPIRED

Mining in the tri-state district peaked in the 1920s and stopped by the '70s. The miners left town; Cave-ins, dangerous dust and caustic water remained. Blood tests showed elevated levels of lead in more than 40 percent of children in some communities.

Most residents took buyouts to leave the former mining towns, which are largely abandoned by anyone not driving a truck tasked with hauling off hills of gravelly waste called chat that fill the horizon like moon-colored dunes.

"We're averaging an almost 3,000 tons a day of of chat to the repository," says Craig Kreman, assistant environmental director for the Quapaw tribe.

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FRITZ HENLE / LIBRARY OF CONGRESS

A mountain of waste rock outside a zinc concentrator near the Eagle-Picher plant near Cardin, Okla., in 1943. Production at the Tri-State Mining District peaked in the 1920s and largely stopped by 1970.

The chat piles are just one part of the problem. Much of the ore was buried below the water table. When the companies left and stopped pumping the mines dry, the caverns filled up. Water carrying cadmium, lead and other toxic metals **bubbles to the surface** into Tar Creek and downstream into a critical watershed.

The EPA didn't respond to interview requests. In the testimony on Capitol Hill, representatives pressed Pruitt on how he could champion the Superfund program while simultaneously supporting a budget plan from President Trump that slashes the program's funding by nearly **one-third**.

"It's more about decision-making, leadership and management than money, presently," he said. Later, Pruitt told the committee he'd push for more funding if he felt it were needed.

Katherine Probst, an independent consultant who has spent 20 years researching and evaluating EPA's Superfund program, says poor funding has plagued the program for decades.

"They don't have the money to clean up an average Superfund site in most states," she says. "They just don't have $25 million to clean up a site."

JOE WERTZ / STATEIMPACT OKLAHOMA

A worker brushes dusty mine waste off a truck before it exits the contaminated site.

Superfund was initially funded by a trust fed by taxes on crude oil, chemicals and environmental taxes levied on corporations. Those taxes expired in 1995 and were not reauthorized. The money now comes by way of congressional appropriations. Research **from Probst** and the U.S. Government Accountability Office **shows** funding for Superfund has declined for nearly two decades — under Republican and Democratic administrations.

Probst says Superfund sites would benefit from clearing bureaucratic red tape, which Pruitt pledges to do. Technical problems are stalling progress at some sites. Others are delayed by foot-dragging by companies deemed responsible for contamination. Other roadblocks are unknown due to poor data about the sites and the health hazards they pose.

JOE WERTZ / STATEIMPACT OKLAHOMA

A truck filled with chat transports mining waste to a nearby repository near Picher, Okla. Some of it is processed and reused for asphalt, while the most contaminated chat is taken to specially designed landfills for long-term storage. More than 180 truckloads carrying 3,000 tons of waste are transported daily.

## MINING MONEY

Rebecca Jim, the executive director for L.E.A.D. Agency, says the government's attention to Superfund faded alongside the tax money.

"Superfund is broke," she says.

Jim founded the nonprofit in the mid-'90s to organize and amplify local residents' concerns about the Tar Creek contamination and cleanup. The group's headquarters in nearby Miami has become an information hub about the contaminated site and a community center for local youth.

Jim would like Superfund's stream of tax money restored, but acknowledges that's likely a pipe dream.

"You get a good start in trying to do the clean up, but you just do a little at a time — that's all you can do," she says.

In 2012, the EPA signed an **agreement** for the Quapaw to lead and manage the Tar Creek project — the first tribal-led cleanup of a federal Superfund site. Earlier this year, the agency awarded the tribe $4.8 million to clean up soil from contaminated tribal lands.

Jim says the tribal management is a positive development for Tar Creek.

"We've got some real hope to start restoring some larger pieces of land, but it costs money," she says.

JOE WERTZ / STATEIMPACT OKLAHOMA

Quapaw Assistant Environmental Director Craig Kreman stands in a section of the Tar Creek Superfund site where remediation efforts are nearly complete.

### CONTAMINATION, 'CELEBRATION'

Top EPA officials recently traveled to northeastern Oklahoma for a tour of the Tar Creek Superfund site. Kreman with the Quapaw says the tribe hopes the agency's visit is a good sign.

"We took them up top a chat pile and they can see, for miles, the effects Tar Creek has had on the environment on the community," he says.

Kreman says Tar Creek still needs tens of millions in federal money to support a cleanup that will likely continue for decades. If Superfund's budget is slashed, Tar Creek will compete with others for a smaller slice of funding.

When the top-10 list comes out, Kreman and Jim hope Tar Creek is on it and that the contamination in their community **once again** is recognized as one of the country's most polluted places.

"Every single acre is a celebration. Every bit of water that's cleaned up before it enters Tar Creek, that's a celebration," Jim says. "I'm just waiting for the big one. The big joy when it's done."

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Chron http://www.chron.com/business/energy/article/Trump-s-air-pollution-pick-goes-before-senate-at-12201542.php

# Trump's air pollution pick goes before senate at critical moment

By James Osborne **Updated 7:46 am, Monday, September 18, 2017**

**IMAGE 1 OF 2**

Scott Pruitt, the administrator of the Environmental Protection Agency, is working to roll back regulations, close offices and eliminate staff at the agency.

---

Expect some fierce questioning when President Donald Trump's pick to head the EPA's air pollution division gets his confirmation hearing Wednesday before the Senate Committee on Environment and Public Works.

A partner in the D.C. law firm Hunton Williams, Bill Wehrum is no stranger to EPA - he served in the agency under former President George W. Bush.

With EPA Administrator Scott Pruitt expected to announce in the weeks ahead his plans on whether to replace the Obama administration's Clean Power Plan - which would dramatically cut carbon emissions from the nation's power sector - Wehrum would be taking over as Assistant Administrator for the Office of Air and Radiation at a critical time.

Known as one of the country's most studied attorneys when it comes to U.S. air pollution law, Wehrum's has spent much of the last decade representing oil and gas and chemical companies before state and federal regulatory agencies.

"The grave concern is over his industry priorities and his dismal track record during the time he led or helped lead the Bush EPA air program," wrote John Walke, clean air project director at the environmental group Natural Resource Defense Council. "EPA failed to enforce the Clean Air Act to protect Americans' health, natural environment and air quality—repeatedly and egregiously. EPA erred, always, to the benefit of America's largest polluters."

As head of the air office, Wehrum would be responsible for carrying out a major slice of the Trump administration's deregulatory push, overseeing a portfolio that includes the energy, industrial and car industries.

Among Republicans Wehrum is known as a steady hand with decades of experience inside and outside the government.

"Bill Wehrum's understanding of the Clean Air Act may be second to none. His desire to pull up his sleeves and actually make the Clean Air Act work as a practical matter is second to none," wrote Marcus Peacock, EPA deputy administrator during the Bush administration.

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By Sally Beauvais | September 15, 2017 9:30 am

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*From Marfa Public Radio:*

There's a natural resource sitting above ground in oil-rich West Texas that's in high demand this summer. Millions of tons of it, in fact. A field of sand dunes extends 200 miles in a crescent from New Mexico through the booming Permian Basin. Now the oil industry has taken a special interest in this sea of windblown formations.

Outside of a loading facility in Odessa, Texas, Molly Sizer opens up the trailer hatches on top of her red International Eagle 18-wheeler. Her trailer is empty now, but soon it will hold 50,000 pounds of sand. The sand is transported into the facility by rail from the midwest and other parts of Texas. We climb back into the cab and get in line behind several other trucks, waiting to load up under the silos before hauling the sand off to oil well sites. Molly got her start trucking a couple of years

become the epicenter of onshore drilling in the in U.S., the role of sand in the fracking process has become increasingly important. He thinks that looking at the amount of sand pumped per well in the Permian may be a better way to track oilfield activity than counting rigs.

"Now it's not just about drilling as many wells as we can, we're actually drilling fewer wells than we used to, but it's about touching more of the rock underground," he says.

Transporting sand long distances is expensive – it can cost up to 3 times the price of the material itself. Some producers hope that soon, the sand that truckers like Molly haul to their wells will be locally sourced. And the Permian Basin may continue to see more job openings accompanying what some are referring to as the sand "gold rush."

According to Clint Walker with the Permian Basin Petroleum Association, the more sand producers pump into their wells, the more oil the wells produce.

"Where that diminishing return point is, we don't know. But more sand equals better wells," says Walker.

Until recently, the industry favored coarse-grain sand for the fracking process, mostly from the midwest. But when oil prices plummeted a couple of years ago, producers began experimenting to find more efficient and cheaper ways to get oil out of the ground. They found that, at least in some formations, using finer sand at higher and higher volumes seems to push out more oil. This shift in industry thinking means the West Texas dunes – dunes that Walker grew up playing in – are suddenly of great interest.

The area's first, and so-far only operating mine opened on July 31, at a former dune recreation site outside of the town of Kermit. At least a dozen other companies have announced plans to open mines in the area.

Joseph Triepke at Infill Thinking says it's too soon to tell whether the market is big enough.

"There is a question out there, if we do produce it, will they come? Will they actually buy it and pump it just because it's there and cheap?"

He notes that less than half of the companies staking territory in the Permian dunes have filed the required permits. He has much lower estimates of local capacity and demand – 2.9 and 5.4 million tons, respectively – and he wants to see more test results that speak to whether this fine sand will work for Permian producers.

"You know, I'm still not completely on board with using the Kermit sands as a frac sand. Because not all sand is created equal," he says.

According to Elliot, the Northern White sands from the midwest that producers have used for years are, geologically speaking, much older than the Permian sand. They've withstood the test of time through life cycles of erosion, making them more durable.

But sand from the midwest is expensive, and sand mining has raised environmental concerns in that region related to the process of digging the sand out from under the topsoil. The west Texas dunes, which sit in loose piles on top of the bedrock, pose their own set of problems. Oilfield geologist Dr. Steve Schafersman says that the dunes are an isolated and unique ecosystem.

"There's a tremendous diversity of wildlife all sorts of plants and animals that are unique because they are adapted to live in the dunes, that's their home," Schafersman says. "They can't live anywhere else."

Among them is the Dunes Sagebrush lizard, a rare species that came close to an endangered listing at the onset of fracking in the Permian. The listing was fought off successfully by the oil industry, but the removal of the lizard's habitat will give environmentalists a stronger edge to protect the dunes in court, in the face of an impending sand boom.

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HARVEY 5 DAYS AGO

# Tracking Harvey's financial toll: New damage estimate rises to nearly $200 billion

*Paul O'Donnell, Business Editor*

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# Tracking Harvey's economic toll

Two university researchers who study flood damage are out with a new estimate that would establish Hurricane Harvey as the costliest storm in U.S. history.

Michael Hicks of Ball State University and Mark Burton of the University of Tennessee predict damage to homes, businesses and public instructure along the Texas Gulf Coast will end up costing roughly $198 billion. That exceeds the price tag they put on Hurricane Katrina, which in today's dollars would have totaled $194 billion.

Here's how Hicks and Burton break down their estimate:

Commercial structure damage: $26.6 billion

Commercial equipment damage: $46 billion

Residential structure damage: $77.2 billion

Residential contents damage: $36.8 billion

Lost commercial revenue: $5.8 billion

Electric utilities damage: $348 million

Highway damage: $3.8 billion

Sewer system damage: $1.9 billion

history, according to the National Oceanic and Atmospheric Administration.

On Monday, as Hurricane Irma began to weaken after cutting a destructive swath across Florida and the Caribbean, Moody's Analytics said the combined cost of the back-to-back hurricanes would total $150 billion to $200 billion. It put Harvey's toll at $86 billion to $108 billion.

## Houston's post-Harvey outlook: 'If $26 oil doesn't do us in, 52 inches of rain won't either'

What inflates the university researchers' estimate is the inclusion of public infrastructure damage, a cost they said is often ignored.

Hicks and Burton, director of transportation economics at Tennessee's Center for Transportation Research, drew on their research of other weather disasters, including devastating flooding along the Mississippi River and in Pakistan.

"We would expect the impact ... to include a short-term spike in jobless claims and unemployment, concentrated around Houston and in industries affected by supply disturbances," said Hicks, director of Ball State's Center for Business and Economics Research.

The Labor Department reported last week that initial jobless claims shot up 62,000 in the week following the storm. It was the highest level in more than two years for new applications for unemployment benefits.

## Tracking Harvey's toll: 'This is the costliest and worst natural disaster in American history'

The researchers also see Harvey's financial toll dragging on the nation's third-quarter economic growth by as much as 0.25 percent, though they expect that to be offset by increasing labor demand and resumption of production by the end of 2018's first quarter.

In an interview Tuesday morning on CNBC, Treasury Secretary Steven Mnuchin acknowledged the impact of Harvey and Irma on the country's gross domestic product.

"I would say there clearly is going to be an impact on GDP in the short run," Mnuchin said. "We will make it up in the long run as we rebuild. That will help GDP. So I think it's too early to tell what the exact estimates will be, but, you know, I think it won't have a bad impact on the economy."

Watch CNBC's full interview with Treasury Secretary Steven Mnuchin from Delivering Alpha

The 77th United States Secretary of the Treasury Steven Mnuchin joins Squawk Box's Becky Quick, Joe Kernen and Andrew Ross Sorkin.

31:02

Watch CNBC's full interview with Treasury Secretary Steven Mnuchin from Delivering Alpha from CNBC.

Insurers are just beginning to put numbers on expected losses from Harvey. Flood damage is

Travelers Cos. Inc., the 12th-largest home insurer in Texas, reported Monday that it expects Harvey-related losses of $375 million to $750 million before taxes. State Farm, Farmers, Allstate and USAA are the state's largest home insurers by market share and will likely incur bigger losses covering claims.

Many companies operating along the Texas Gulf Coast also have yet to publicly disclose the storm's cost. Here are a few that have:

An AT&T executive says the Dallas-based telecom giant expects to see a drop in customers because the storm displaced many cable and internet subscribers living in hard-hit parts of southeast Texas.

Southwest Airlines, which canceled thousands of flights at Houston's Hobby Airport, expects to take a $60 million loss.

Enlink Midstream, a Dallas company that provides transportation and storage services to the oil and gas industry, says Harvey had "minimal financial impact" on its South Texas operations and regional office in Houston.

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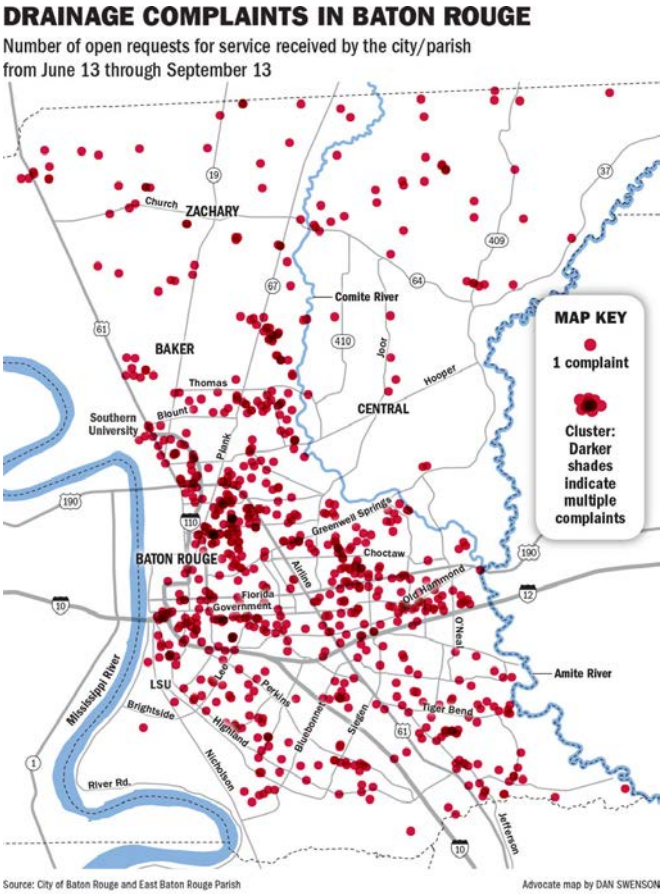
# Can system be unclogged? 3,200 East Baton Rouge drainage complaints pending, some never to be addressed

**BY STEVE HARDY | SHARDY@THEADVOCATE.COM SEP 16, 2017 - 4:43 PM**

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Steve Hardy

When a Baton Rouge resident asks the city-parish to clear a ditch, haul debris from a canal or fix the eroding bank of a bayou, they may face a wait, if their call is ever answered at all.

The number of open drainage complaints in east Baton Rouge continues to climb, and has swelled to about 3,200, according to city-parish staff.

**Drainage woes frustrate East Baton Rouge residents -- and policy makers looking for fixes**

*Story Continued Below*

Some critics say the city-parish has run its public maintenance operations based on politics and that those with influence can get problems addressed while others have to wait in line.

The new maintenance department director has challenged that characterization, but work is still scattershot. Understaffed and underfunded maintenance crews rush from one call to the next without any kind of overarching plan for regular preventative work.

Councilman Trae Welch said his constituents around Zachary and the northern part of the parish have been flooding more in the past year. He suspects that debris from last summer's storm is still stopping up the waterways

"(They) haven't been cleaned. ... There's an effort going on, but I don't think it's going fast enough," he said.

Leaders across the region have been especially interested in various flood mitigation projects since last year's deluge. Local and state authorities each have a role to play, said Dietmar Rietschier, executive director of the Amite River Basin Commission, a state agency tasked with reducing flooding in the region.

The Comite River Diversion Canal, the Darlington Reservoir and other large infrastructure projects are intended to dampen the effects of so-called 100-, 500- and 1,000-year events, and they require state and often federal buy-in, Rietschier said.

But the responsibility for making sure Jones Creek, Bayou Duplantier and other local streams are clear if debris falls to the city-parish. Maintaining those waterways can help prevent flash flooding from less destructive but more frequent rain events, Rietschier noted.

"It is a problem. It is indisputable that maintenance is a problem," Rietschier said.

"That is a big problem statewide, it is a problem locally — not because there is a lack of willpower. ... but because there is a lack of resources."

Last year's flood has residents on high alert. Drainage maintenance calls have tripled in the past year, said Kyle Huffstickler, who took over as maintenance director about four months ago.

"We have such a backlog. ... It seems like you never get the number down," he said.

When a citizen calls 311 to complain about a collapsed pipe or a clogged stream, staff try to determine if the problem is going to cause an immediate threat of flooding a building, Huffstickler said. Those calls get priority. Sometimes the diagnosis can be made over the phone.

That's more or less how the system has operated for decades.

"We never had a schedule. ... It's pretty much reactive to complaints," said Jerome Klier, the retired deputy director of the Department of Public Works who was with the department between 1976 and 2004.

Carlos Giron wants East Baton Rouge to look at putting a system in place to address drainage issues in a more effective and consistent manner.

An environmental consultant, Giron was co-chair of the mayor's transition team that evaluated the maintenance department.

His group wrote in their report that "work tasks are often assigned based on the level of political priority as opposed to a designed overarching plan." However, neither he nor Welch said they suspect any particular areas of the parish are getting preferential treatment over others.

Giron also wants the department to track their progress, such as their complaint clearance rate, miles of waterway serviced or number of work orders completed.

Asked if the current level of maintenance is putting homeowners at risk, Giron said "You would think so, but being a scientist I'd want the data."

Nevertheless, he does think Mayor-President Sharon Weston Broome is taking his team's suggestions to heart. The mayor recently awarded an engineering firm a contract to design a drainage master plan for the parish. The firm, HNTB, declined to comment for this article.

The state is working on a related project of its own that aims at solving some of the region's drainage woes.

Using aircraft-mounted lasers, contractors will scan the topography of about 1,700 square miles in the Amite River watershed to create a hydrologic model of the region. Engineers hope that state and local authorities can share notes to keep the model up to date and improve its accuracy. Portions are scheduled to be

functional in April and August, and the whole thing will be ready to turn over to LSU in early 2019.

"This integrated model will be the best elevation tool available for the Amite River Basin and the only one of its kind in the state," Deputy Assistant Secretary Chris Knotts wrote in an email.

**New risk model could aid Baton Rouge residents, but it's not all smiles**

Transportation and Drainage Director Fred Raiford said the Broome administration is interested in preventive maintenance but "it's almost impossible to do that" given the city-parish's current manpower.

The transition report and people interviewed for this story remarked on the high turnover rate among poorly paid maintenance workers. Giron added that the city-parish's "onerous" hiring procedures make it difficult to fill open positions.

Raiford suggested looking at other ways to address flooding, such as building codes.

Most people are already probably protected from flash floods if their homes are built to code, said Klier, the former DPW leader.

However, last week the Metro Council ordered their staff and the Planning Department to study the Unified Development Code to look at possible changes to the floodplain ordinance that spells out what can be built and how it should be built.

Rules are divided based on controversial FEMA floodplain maps, which distinguish between property with an estimated 1 percent or greater chance of flooding in a given year and areas with less than 1 percent chance of flooding each year.

Potential changes could include higher elevation, more green space and additional water retention capacity on new developments, said Planning Director Frank Duke.

**Metro Council to consider requirements for higher building elevations, more green spaces for new construction in the floodplain**

Drainage maintenance doesn't just fall on the city-parish, he continued. Homeowners Associations have a responsibility to keep their retention ponds clear, and if people see their neighbors mucking up the system — for example by fencing over a channel — they need to report it, Duke said.

"The planning process assumes that maintenance is happening. ...You have to assume that the routine things are happening," he said.

"You can design the most perfect system there is, but if you don't provide maintenance, the whole thing falls apart."

Several experts talked about the ongoing challenge of finding money to pay for maintenance.

"How are we going to fund all of these things? That is very important — to find a revenue source. ... The public needs to understand there is a cost associated with all the things we're talking about," said Rietschier, the Basin Commission head.

The city-parish has applied to FEMA to help pay for work, but officials are still waiting to hear back, Huffstickler said. They have received about $230,000 from the Natural Resources Conservation Service to repair an eroded dirt embankment on Weiner Creek, he continued.

If the city-parish tries to levy money locally, history will not be on their side. Baton Rouge voters have consistently declined to take on another tax for drainage. Former mayors Woody Dumas, Tom Ed McHugh and Kip Holden all introduced tax proposals that would have included funding for drainage, but all failed to win popular support, Klier said.

"It's not like wastewater which is set aside, where there's sufficient maintenance," he continued.

The flood may have changed some people's minds, though.

When Broome introduced an infrastructure tax proposal earlier this year, one of the criticisms — even in constantly congested Baton Rouge — was that it focused almost exclusively on roads rather than drainage. On Wednesday, the Metro Council voted not to put the road tax measure up to a popular vote.

Welch, who voted against putting the item on the ballot, said he would be willing to listen to a new infrastructure proposal that also addresses storm water once the mayor's study is complete and the city-parish learns how much funding it can expect from FEMA.

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# Why Hurricanes Harvey and Irma won't lead to action on climate change

SCOTT GABRIEL KNOWLES, DREXEL UNIVERSITY |

September 17, 2017 | Updated: September 17, 2017 10:02pm

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(The Conversation is an independent and nonprofit source of news, analysis and commentary from academic experts.)

Scott Gabriel Knowles, Drexel University

(THE CONVERSATION) It’s not easy to hold the nation’s attention for long, but three solid weeks of record-smashinghurricanes directly affecting multiple states and at least 20 million people will do it.

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Clustered disasters hold our attention in ways that singular events cannot – they open our minds to the possibility that these aren’t just accidents or natural phenomena to be painfully endured.

As such, they can provoke debates over the larger “disaster lessons” we should be learning. And I would argue the combination of Harvey and Irma has triggered such a moment.

The damages caused by the storms will undoubtedly lead to important lessons in disaster preparation and response. For many, though, the most urgent call for learning has been to acknowledge at long last the connection between climate change and severe weather.

Will this cluster of disasters provide the lever that will move climate change in the United States from a “debate” to an action plan?

It’s easy to view disaster history in this cause-effect way – to hop in time from disaster to disaster and spot the reforms as though they naturally emerge from adversity and commitment to change. But as a historian with a focus on risk and disasters, I can say this view can be misleading.

Early in the 20th century, the United States went through an era of profound concern over urban disasters that seemed to threaten city life itself.

In December 1903, the Iroquois Theatre Fire in Chicago killed over 600 audience members due to faulty construction. Just over a month later, in February 1904, the Great Baltimore Fire consumed 140 acres of the city. That same month, a major fire ravaged Rochester. In June of the same year over 1,000 people died due to a fire aboard the General Slocum steamship in New York City.

Newspapers of the era were full of anger and fear over the dangers of fire and the unscrupulous actions of greedy builders and ship line operators. Despite the intensity of this 1903-04 disaster

cluster, Americans would see many more such disasters (San Francisco 1906, Triangle Shirtwaist Fire 1911) before consequential reforms in fire safety were passed into law.

Eventually those reforms did arrive, but not all at once, and not with one bill. The reforms were distributed in building codes, city plans and product safety standards that came into place by the 1930s. The disasters defined moments in time; reform was generational.

The aftermath of September 11 provides another telling example. The disaster led to multiple investigations and studies, including the best-selling 9/11 Commission Report. Perhaps the most lasting effect of September 11 was the restructuring of government that created the Department of Homeland Security.

However, we should be careful when we leap quickly from disaster to reform. The federal response to 9/11 appeared swift and decisive but was in fact following a script set in place over the previous decade through repeated attempts by some policymakers to reshape the government's capacity to respond to the terrorism threat.

It took years for scientists at the National Institute of Standards and Technology to finally explain the exact causes for the collapse of the Twin Towers. And in doing so, they uncovered fire, structural and evacuation vulnerabilities in the towers. These flaws were first witnessed in the 1993 bombing but dated back to the 1960s when the buildings were designed and built. The September 11 reforms did come, but only as part of a broad continuum of concern, research and debate over policy choices that had long preceded that terrible day.

This brings us back to Harvey, Irma and the climate change connection. We have not seen any storm-day conversions on climate change in the Trump administration — indeed, EPA Secretary Scott Pruitt remarked that it was "insensitive" to even broach the topic while the storms were still active.

There is plenty of evidence in social psychology to indicate that individual perceptions of risk – or individual commitments to an ideology – cannot be easily shaken be external factors, even factors as dramatic as storms like Harvey, Irma or even Katrina.

This fits the historical pattern: Clustered disasters might sharpen our senses to the risks in our midst and even disturb our complacency, but they will not necessarily lead directly to new

legislation or personal ideological shifts. Strong commitments to land use, profits and real estate development have historically militated against calls for caution, restraint and mitigation, even though these types of laws make Americans safer from disasters. This dynamic will not be altered by two hurricanes, no matter how terrifying their effects.

Better indicators of change, drawing from history, have proven to be events that cluster over much larger stretches of time. A “slow disaster” frame allows civil society and scientific researchers to build a case for change that is strengthened by disaster events. For example, the red alert about the toxicity of DDT raised by Rachel Carson in 1962 had immediate effects, but that was only one early step in a series of events that followed. It should be seen as part of a much more impactful and slower process of reform that led to the creation of the Environmental Protection Agency in 1970 and a wave of environmental regulations that took effect in that decade.

This relationship between discrete disaster events and slow disaster eras is a critical one for us to understand. We might just now be at the very beginning of such an era in the public consciousness over the connections between disasters such as hurricanes, fires, droughts and the slow disaster of climate change.

It’s frustrating for people who want quick government action on climate change to be told they should play a “slow disaster” game. And why shouldn’t they be angered if they have experienced the loss of a loved one or a home in the disasters of these past weeks? Still, it’s useful for us to see that even the most devastating disasters are probably points on a longer timeline – one that might lead to reform if and when broad-based political action prepares the way.

Indeed, disaster victims making common cause with scientists and engineers has been one proven way to bring about a type of learning from disaster that might be more effective towards achieving ambitious changes. These could include the United States reentering the global community on climate action and the passage of laws that would require climate change planning to affect future construction.

But the hurricanes of Harvey and Irma will be a catalyst for a new age of realism regarding the hazards of climate change only once civil society and our politicians recognize them as part of a pattern that stretches over decades, not weeks. Our urgency to learn from disaster is important, and it is a moral imperative. We would be wise to harness this urgency to form a generational commitment to reducing the suffering from disasters.

This article was originally published on The Conversation. Read the original article here: http://theconversation.com/why-hurricanes-harvey-and-irma-wont-lead-to-action-on-climate-change-83770.

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LOUISIANA ENVIRONMENT AND FLOOD CONTROL

# This Louisiana coastal community fought to get running water; now it might drown

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Posted on September 17, 2017 at 6:00 AM

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**By Sara Sneath**
NOLA.com | The Times-Picayune

The minister inhaled into the microphone. His body arched over the pulpit as he readied himself to bellow the teachings of the gospel.

"There is light in life. Wherever Jesus goes, the darkness flees," Irvin Ross exhaled. "Y'all know that Jesus is the light of the world. And if you're walking with Jesus this morning, you're walking in light. ... And if you're not walking with Jesus this morning, you're walking on the wrong side of the road."

Each sentence was punctuated with a "mmhmm" and "yes" from the pews. The congregation of about 30 people urged Ross on, as if he were a runner nearing the finish line.

For the tiny community of Ironton, however, the finish line always seems to move farther away. Residents had to agitate to be represented in local government, to keep their air clean, even to get running water.

Now they're trying to get protection from water. They face the threat of more flooding brought on by rising seas, sinking land and coastal erosion, making Ironton one of the more vulnerable communities on a Louisiana coast that is losing a football field of land every 100 minutes.

Twenty-five miles below New Orleans on the West Bank of Plaquemines Parish, Ironton's four residential blocks are sandwiched between the Mississippi River levee and Louisiana 23. Many of the 200 or so residents are related and can trace their roots back generations in Ironton. Their ability to weather hardships comes from a strong sense of community and a great deal of faith, said Rose Jackson, who grew up in Ironton and continues to attend the only church there.

"This is the backbone of the whole community," she said, looking at the doors of Saint Paul Missionary Baptist on a recent visit. "The joy we get here on Sunday, we can't find it nowhere else."

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The story of Ironton's effort to get running water has become a parable of perseverance and triumph. Before 1980, Ironton residents obtained their drinking water by filling containers from a truck that delivered twice a week. When the truck didn't show up, the residents, all African-American, collected rain in cisterns, said Pauline Manuel, 75: "We had no other choice."

The nearest water pipeline was less than two miles up the road. But the Plaquemines Parish president at the time, the white Chalin Perez, son of staunch segregationist Leander Perez, would not allow it at a time when the parish government was buying a helicopter and a golf course in Braithwaite.

An activist group, the Fishermen and Concerned Citizens Association of Plaquemines Parish, took up the fight, said Rev. Tyronne Edwards, a former director of the organization and author of a recently published book about the history of African-Americans in Plaquemines Parish. The association brought in local civil rights leaders and caught the attention of the national news media, and eventually persuaded parish officials to extend the pipeline.

The victory instilled in residents a kind of fortitude, Edwards said. "You take a community that didn't have any running water and was able to survive under those circumstances and still be a viable, strong healthy community," he said. "Families didn't move, and their spirit wasn't broken."

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That fortitude has passed down from generation to generation. Audrey Trufant-Salvant's mother, Mary Griffin-Trufant, was active in Ironton's fight for water, and Trufant-Salvant has carried the torch: She's the first African-American woman, and first Ironton resident, to serve on the Parish Council.

"I've always been an activist," she said, adding that her father, too, played a role in her passion. "That's where I get a lot of my tenacity from."

It was her mother's generation that made it possible for Trufant-Salvant to be elected. In the 1970s, two African-Americans sued the Parish Council's predecessor, the Commission Council, alleging that Plaquemines' election system discriminated against African-American residents who made up 30 percent of the population. A federal judge agreed.

But it was Trufant-Salvant's own battle that won her the votes. In 2013, she helped mobilize an effort to stop RAM Terminals from building a controversial coal export terminal just north of Ironton. The next year she was elected to the Parish Council.

Her willingness to take on industry hasn't faded. She cast the only council vote in 2015 against dropping a parish lawsuit alleging that oil and gas companies catalyzed coastal erosion by dredging and polluting canals to exploration sites. Despite the vote, the parish remains a party to the lawsuit, as is the Louisiana Department of Natural Resources.

"I think all of our problems are mainly because of greed. It's not because of need," she said. "My opinion has always been: You damaged it. You dredged it. You fix it."

Without the wetlands as a buffer, tropical storms shove water from the Gulf of Mexico into Barataria Bay and across Louisiana 23, inundating Ironton. Residents drive up on the Mississippi River levee to escape.

In 2005, Hurricane Katrina wiped out every house in Ironton when the Mississippi River levee protecting the community broke. But the community is typically inundated from the highway side, its only hurricane levee being a non-federal structure that stands about the height of a speed bump on the other side of the road.

An Army Corps of Engineers project, aimed at increasing levee protection between New Orleans and Venice, is underway. But just as the water pipeline did 37 years ago, it will fall short before it gets to Ironton. Four miles north of Ironton, the height of the levee is designed to drop, from a "50-year" level of risk reduction to a 20- to 25-year level.

A 20-year-level system is one that is thought to be capable of protecting against a storm with a 5 percent chance of occurring in any year. By contrast, the **New Orleans area hurricane levee system** is built to a 100-year level of risk reduction. And, there's a possibility that the segment to protect Ironton will not be built at all.

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After Katrina, Congress appropriated $671 million to replace or modify certain non-federal levees in Plaquemines Parish, and to incorporate the levees into the existing New Orleans-to-Venice project. The Ironton segment is scheduled to be the last construction contract award, and the money could run out before it's built, according to Army Corps of Engineers officials.

Like many communities along the coast, the future for Ironton looks bleak. The land on either side of the river levees below Belle Chasse once looked like toes extending from the outline of the state's boot. According to modeling done for the state's coastal master plan, 50 years from now it will more like a stick figure's arm, further increasing Ironton's vulnerability to flooding.

As residents of the community age, their battle against nature might be the one fight they can't win. Pauline Manuel, 75, counts herself among those who can't fathom rebuilding again.

"I'm tired of running," she said. "You get tired of going through the same thing over and over."

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*Sara Sneath covers Louisiana coastal issues for NOLA.com | The Times Picayune. Reach her at ssneath@nola.com. Follow her on Twitter @SaraSneath.*

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# Hurricane Harvey left Houston residents breathing benzene

Published on September 18th, 2017 0

**TAGGED:** BENZENE, ENVIRONMENTAL JUSTICE, EPA, HOUSTON, HURRICANE HARVEY, POLLUTION, TOXICS

*After Hurricane Harvey's flooding caused an oil tank in Houston's Manchester neighborhood to cave in, private monitors found benzene levels that far exceeded health guidelines*

**By Lisa Song and Al Shaw, *ProPublica*, and Kiah Collier, *The Texas Tribune***

As a longtime resident of Manchester, Guadalupe Hernandez is used to the chemical smells that waft through his southeast Houston, Texas neighborhood, a low-income, predominantly Hispanic community near a Valero Energy refinery. But when Hurricane Harvey blew in the weekend of Aug. 26, the stench became noticeably stronger for about five hours, a scent like "glue or boiled eggs," he said.

The Environmental Protection Agency has assured the public they looked into complaints in the area a week after the storm hit, and spent several days taking air pollution measurements with a mobile laboratory. The agency didn't release any specifics, but said concentrations of several toxic chemicals, including the carcinogen benzene, met Texas health guidelines.

- **Background: After the flood: How Houston developed its way into disaster**

Now, environmental advocacy groups have shared their own, detailed data with ProPublica and the Texas Tribune, based on air sampling from the same Manchester streets over six days after Hurricane Harvey. It shows a more nuanced picture than the one given by the EPA: in numerous locations, benzene levels, though under the Texas threshold of 180 parts per billion, far exceeded California's guidelines, which is 23 times more stringent and is well-respected by health advocates nationwide.

About 10 of the benzene measurements exceeded California's limit of 8 ppb. (Neither California's nor Texas' guidelines is legally enforceable; both are thresholds that can trigger regulatory scrutiny).

The readings may not have exceeded Texas' guidelines, but they're still higher than usual, "and they are concerning," said Elena Craft, a senior health scientist at the Environmental Defense Fund, which sponsored the monitoring with Air Alliance Houston. "Did we actually capture the highest concentrations that blew into the neighborhood or not? We don't know."

The two highest benzene concentrations, 90 and 77 ppb, were detected within 1,600 feet of a damaged storage tank at the Valero refinery. At the time the data was collected, the wind was blowing from the direction of the tank toward the monitoring sites.

Valero reported on Aug. 27 that the rain from Hurricane Harvey had submerged the tank's floating roof, releasing benzene and crude oil. Satellite images from Aug. 31 released by DigitalGlobe show the caved-in tank at the refinery.

Air pollution experts say much of the benzene would have dissipated by the time the advocates began monitoring on Sept. 4. The EPA started its sampling a day later. Days before either monitoring effort, the city of Houston detected a single benzene concentration of 324 ppb in Manchester.

Hernandez said he believes the fumes he noticed during the hurricane came from the refinery. Margarita Zepeda, another Manchester resident, also remembers a strong smell during the storm.

"During normal rains it would never smell bad but during [the hurricane], it did — chemicals, I guess. And I'm not the only one. All the neighbors" could smell it, too," Zepeda said.

The EPA said Thursday that Valero had significantly underestimated the amount of benzene that leaked out, the Houston Chronicle reported. Valero did not respond to a request for comment.

Craft said EDF and Air Alliance Houston decided to take air samples after the hurricane triggered the release of millions of pounds of air pollutants from industrial facilities. They hired Entanglement Technologies, a California-based firm with a mobile monitoring lab, for $20,000, with the bulk of the funds coming from EDF.

"It's resource-intensive to bring folks from California, but we felt the threat was real enough to warrant it," Craft said.

The researchers monitored four different air pollutants, but the focus remains on benzene, a compound so potent that the American Petroleum Institute, a trade group for the oil and gas industry, acknowledged in 1948 "the only absolutely safe concentration … is zero."

Jill Johnston, an environmental health professor at the University of Southern California who wasn't involved in the monitoring, said because the samples were taken over a period of minutes, it's hard to tell if the elevated levels were brief spikes or representative of longer-term air quality. If those concentrations persist over days or weeks, then the community would be at much higher risk, she said.

Bakeyah Nelson, executive director of Air Alliance Houston, said the benzene is an added burden for "fenceline" communities near industrial sites that already have higher-than-average rates of asthma, cancer and other illnesses associated with continuous chemical exposures. The eastern side of Manchester, where most of the measurements were taken, is wedged between the refinery, two highways and multiple railroad tracks.

"This is real stuff, this is not theoretical. If you go there and try to breathe you can literally taste the petroleum and gasoline that's in the air," said Mustafa Ali, a former EPA environmental justice official who is now senior vice president of climate, environmental justice and community revitalization at the Hip Hop Caucus.

There are families in these communities who can reach through their backyard fence and touch the piping of the nearest facility, Ali said.

- **Background:** **Hell and high water – Houston is a sitting duck for the next big hurricane**

The Texas Commission on Environmental Quality, the state environmental regulator, has dozens of stationary air monitors across Texas, but the ones in Harvey-affected areas were temporarily turned off during the storm. That's why mobile, on-the-ground monitoring is so crucial, and the EPA and TCEQ should have "every available unit out there," Craft said.

She was frustrated when TCEQ officials told her in a meeting on Tuesday that a sophisticated TCEQ air monitoring unit—capable of gathering real-time, precise data in the field—has been in Austin since the storm, and wasn't deployed to Houston.

"If not now, when?" she said. "I feel like we've been doing the agency's job."

TCEQ spokeswoman Andrea Morrow did not respond directly to inquiries about the unit, but two other environmental advocates who attended that meeting confirmed TCEQ told them it was sitting in an Austin garage.

Morrow, in an emailed statement, said TCEQ and EPA investigators have used handheld monitoring equipment to survey facility fence lines, and sponsored aerial surveys to spot potential pollutant leaks. She said TCEQ would release its data once it's validated.

The EPA didn't respond to inquiries about the detailed data that came from its Manchester monitoring. The agency has posted maps showing additional monitoring it has conducted in other communities, but not the concentrations it found, only that all levels met Texas guidelines.

Aside from Manchester, Entanglement found another high benzene reading of 76 ppb at an industrial zone in Port Arthur, several miles from a residential area.

Hilton Kelley, a well-known community organizer in Port Arthur, said he noticed "a very pungent odor of sulfur dioxide and other toxic chemicals" during the week Entanglement was monitoring the air. "It makes your eyes water, it stings your sinuses, and it creates a scratchy feeling in your throat," he said.

The Port Arthur area is a hub of industrial activity including the largest refinery in the United States and a facility that processes petcoke—a byproduct of oil refining.

Since Hurricane Harvey, local health concerns have been overshadowed by the more pressing need for housing, as hundreds of residents were evicted from damaged homes, Kelley said. "When your stomach's growling and you're sitting on the curb with three or four kids in the hot-ass sun, pollution is the last thing on your mind."

In the long-term, Kelley said he wants the TCEQ to put continuous air monitors at facility fence lines in Port Arthur. The current TCEQ monitors in Port Arthur only sample benzene once every six days.

*Additional GIS work was contributed by Jeremy Goldsmith.*

*(Originally appeared at ProPublica. Reposted under a Creative Commons license. Map Sources: DigitalGlobe, Entanglement Technologies, EPA. Valero refinery photo by Michael Stravato/The Texas Tribune)*

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## Car dealers continue to try to screw Tesla (and Tesla customers)

September 18, 2017

The California New Car Dealers Association has expanded its complaint against Tesla over the modern electric car pioneer's use of customer referral programs. The California New Car Dealers Association has sent yet another letter to the state's Department of Motor Vehicles explaining how cruel and unfair Tesla's approach is. By James Ayre The new complaint specifically [...]

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# As a result of Hurricane Harvey, 600 more Texas prisone getting AC

Jolie McCullough , Jay Root and The Texas Tribune , KVUE 3:54 PM. CDT September 17, 2017

*(Photo: iStock)*

Thanks to Hurricane Harvey, about 600 more Texas prisoners are set to get a break from the sweltering Texas heat.

The inmates had been evacuated from the flood-prone Stringfellow Unit (https://www.texastribune.org/library/data/texas-prisons/units/stringfellow/) ahead of the storm. But Texas prison officials, scrambling to get the inmates to safety, sent them to the notoriously hot (though dry) Wallace Pack Unit (https://www.texastribune.org/library/data/texas-prisons/units/pack/) in Navasota.

Once there, a judge ruled, the prisoners were made eligible to join a special class of heat-sensitive inmates subject to a federal lawsuit over hot conditions (https://www.texastribune.org/2017/08/08/texas-heat-prison-plan-gets-federal-hearing/) that have been blamed for nearly two dozen deaths over the last two decades. The Texas Department of Criminal Justice will now have to find cooler beds for them.

"The risk of harm to these individuals when they are housed in dangerously hot areas has not changed," federal Judge Keith Ellison wrote in his order, which was made public Friday.

Department of Criminal Justice lawyers had requested that the temporary order be lifted for these prisoners because they were evacuated to the Pack Unit in an emergency situation. Ellison denied the request. Department spokesman Jason Clark said sending them to the Pack Unit was appropriate given the other options as Harvey was bearing down on the Houston area.

The non-air-conditioned prison in Navasota had largely been emptied because of the federal court's July order to move any medically vulnerable inmates at the prison into temperatures that remain below 88 degrees.

“The alternative was for buses to pass the near empty facility and continue on dangerous roadways and place those offenders in another facility’s gymnasium," Clark said in an emailed statement. "We stand by our decision to keep offenders out of harm’s way."

Inmates return to the Texas Department of Criminal Justice's Ramsey and Terrell units from the Estelle Unit on Sept. 16. Prisoners were evacuated from state prisons in Brazoria County during flooding from Hurricane Harvey. Texas Department of Criminal Justice

Jeff Edwards, lead attorney for the plaintiffs, said the department moved the inmates into the Pack Unit "without regard to their medical conditions or their heat vulnerability."

"The consequence of TDCJ violating the court's order is that another 600 heat vulnerable inmates will no longer be endangered by the high temperatures," Edwards said. "They did it with full knowledge that they were violating the court order."

The judge's ruling came just as most of the Texas inmates who were evacuated from flooded prison grounds are being sent back to their original units this weekend. All told, about 6,000 prisoners were evacuated to escape Harvey's wrath. About 1,400 were already sent back to the Vance and Jester 3 units last Monday.

The 600 heat-sensitive inmates sent to the Pack Unit — including the elderly, obese and diabetic — were among more than 1,000 evacuees from the Stringfellow unit in Brazoria. Ironically, Stringfellow isn't air-conditioned, either, but it doesn't have the cursed status of the Pack Unit.

Not yet, anyway.

Almost 75 percent of Texas prisons and state jails have no air conditioning in the inmates' living areas, and at some prisons, like the Pack Unit, temperatures regularly get above 100 degrees, according to the judge's July ruling. The lawsuit filed by prisoners at the Pack Unit cites at least 23 heat-related deaths in Texas prisons since 1998 and argues that housing should be kept at a maximum of 88 degrees. The lawsuit covers all Pack unit inmates, regardless of their length of stay.

In a scathing July order, Ellison said TDCJ was "deliberately indifferent" to the risk of harm the inmates at the sweltering prison face. Because of the ruling, more than 1,000 inmates housed at the prison were moved in August to 11 other prisons with air conditioning.

TDCJ has appealed the court's July order and says the department does enough to combat the heat without providing air-conditioning in housing areas, such as unlimited ice water, personal fans and air-conditioned "respite" areas in the prisons where inmates can go to escape the heat.

This article originally appeared in The Texas Tribune (http://www.texastribune.org/) at https://www.texastribune.org/2017/09/16/harvey-600-texas-prisoners-getting-ac/ (https://www.texastribune.org/2017/09/16/harvey-600-texas-prisoners-getting-ac/).

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# New Insurance Law Takes Effect September 1, Just in Time for Harvey Aftermath

> The next part is a little difficult to explain, but basically here's what it says: If the insurance company's offer was reasonable (in line with what is determined at trial) and the claimant refused it, the claimant cannot recover more damages...

by Rusty Adams (mailto:radams@mays.tamu.edu))

In the days since Hurricane Harvey hit, social media posts regarding insurance claims and the recently passed House Bill 1774 have spread like wildfire. Plaintiff's lawyers paint it as an attempt to protect the powerful insurance companies, while insurance companies portray it as a deterrent to rampant insurance fraud. Either way, many are left wondering if and how they will be affected.

This is a summary of the law as it applies to most people in relation to Hurricane Harvey. It is not exhaustive, and it may apply differently to your particular situation. This is not legal advice and is not intended to be a substitute for the advice of your attorney.

## The Bad News

Before we get to the bill itself, let me break the bad news. Most homeowners insurance policies do not cover floods. Damage from winds typically is covered, and some homeowners will also have separate windstorm coverage, but floods are not covered. If the roof is torn off or a window is broken, and water gets in that way, it's probably covered. If rising or rushing flood waters caused the damage, it's probably not, unless you have flood insurance.

Flood insurance typically is provided through the National Flood Insurance Program and then only for property in Special Flood Hazard Zones. Elsewhere, flood insurance is not required, and many people who are not required to have it don't have it.

If owners do not have flood insurance, relief likely will come from federal disaster relief benefits, many of which must be repaid.

With that said, lots of people want to know what this new law is, so here's a brief rundown. It is worth noting that the timing of the law's effective date was not intentional. Most Texas laws go into effect on the September 1 immediately following their passage.

## What Changes and What Does Not

The claims process generally does not change. Under the law as it exists prior to September 1, 2017, there are certain requirements for policyholders giving notice of claims and certain requirements for how insurance companies respond to those claims. Insurance companies have a limited time to investigate and pay valid claims that are covered by the policy. If the insurance company does not comply with those requirements, they must pay, in addition to the amount of the claim, interest on the claim at 18 percent per year, plus reasonable attorney fees. Note that a notice of an insurance claim and pre-suit notice are two different things.

Policyholders may sue insurers for breaching an insurance contract, and they may also sue for certain unfair or deceptive practices, such as unfair claim settlement procedures and bad faith conduct. They also may retain a lawyer. This does not change.

Additionally under current law, the insurance company may be awarded its reasonable and necessary attorney fees if the policyholder brings a lawsuit that is groundless and brought in bad faith or for the purpose of harassment. This does not change.

Under the current law, a person who files a suit seeking damages from an insurance company for an unfair or deceptive practice must give 61 days pre-suit notice advising of the specific complaint, and the amount of actual damages and expenses, including attorney fees. The insurance company may make a settlement offer within 60 days, within 20 days after mediation, or within 90 days of the date when the insurance company files its written answer to the lawsuit. This does not change.

The next part is a little difficult to explain, but basically here's what it says: If the insurance company's offer was reasonable (in line with what is determined at trial) and the claimant refused it, the claimant cannot recover more damages, and attorney fees are capped at the amount incurred as of the date of the offer.

What has changed is the amount of interest that may be recovered. Instead of 18 percent per year, the interest on certain claims is now calculated at 5 percent more than the normal post-judgment interest rate. This rate fluctuates with interest rates, but the current post-judgment interest rate is 5 percent, so a claimant may still collect 10 percent interest. Attorney fees may still be collected if they are reasonable and necessary.

Additionally, once the insurance company receives the notice, they have 30 days to submit a written request to inspect, photograph, or evaluate the property. The inspection must be completed within 60 days of the pre-suit notice, if reasonably possible.

Under the new law, the claimant may recover attorney fees up to the lesser of: (a) the amount supported by the evidence at trial, (b) the amount that may be awarded under other applicable law, or (c) in the same fraction as the amount of damages alleged in the pre-suit notice bears to the amount awarded at trial. If the award at trial is at least 80 percent of the amount demanded in the pre-suit notice, the claimant may recover all of his attorney fees as supported by the evidence at trial. If the award at trial is less than 20 percent of the amount demanded in the pre-suit notice, the claimant may not recover attorney fees. This provision is designed to prevent excessive demands being made in the pre-suit notice.

These new provisions apply to lawsuits against insurance companies and insurance agents for the unfair or deceptive practices previously mentioned, *as well as* breach of contract, negligence, misrepresentation, fraud, or breach of another common law duty, but only on claims arising from damage to real property caused by forces of nature. It does not apply to actions against the Texas Windstorm Insurance Association, and it does not create flood coverage where none exists.

To collect under the old law, notice of claim must have been given to the insurance company by August 31, 2017. If notice of claim is given on or after September 1, 2017, the claim will be governed by the new law.

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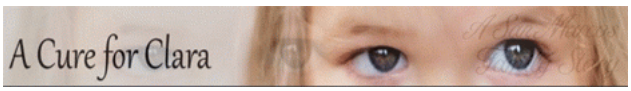
This story was originally published (https://www.recenter.tamu.edu/articles/research-article/New-Insurance-Law-Takes-Effect) by Real Estate Center at Texas A&M University. Rusty Adams (mailto:radams@mays.tamu.edu)) is a member of the State Bar of Texas and a research attorney for the Real Estate Center at Texas A&M University.



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*By Dan Frosch and Laura Kusisto*

Sept. 17, 2017 3:11 p.m. ET

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JOEY PALACIOS / TPR

San Antonio was spared the full force of Hurricane Harvey, leading locals to ask the question: What would have happened if the storm hit closer to home?

The Texas Hill Country is already referred to as "Flash Flood Alley," (http://texashillcountry.com/why-the-hill-country-is-a-k-a-flash-flood-alley/) prone to retaining water after excessive rain.

Bexar County's $500 million flood control program (http://www.bexarfloodcontrol.org/), implemented over the past 10 years, ends this month. The program needs approval from the Commissioner's Court to continue.

The City of San Antonio's stormwater utility fee (http://www.sanantonio.gov/TCI/Projects/Storm-Water-Fee/Learn-About-the-Storm-Water-Utility-Fee) charges residential property owners less than $10 per month, depending on the number of square feet, through the San Antonio Water System. The funds collected contribute to drainage infrastructure improvements throughout the city.

How are city and county officials preparing for the possibility of extreme flooding in the future? What drainage and flood control projects are in the works?

How resilient is the San Antonio area if San Antonio gets hit by a storm of Harvey's magnitude?

**Guests:**

- Manny Palaez (http://www.sanantonio.gov/Council/d8), San Antonio City Council representative for District 8
- Nefi Garza, assistant director of the City of San Antonio's Transportation and Capital Improvements (http://www.sanantonio.gov/TCI/) Department
- Stephen Graham, assistant general manager for the San Antonio River Authority (https://www.sara-tx.org/)
- Emily Royall, data director at the Rivard Report (https://therivardreport.com/)

*This is a community conversation and we want to hear from you. Leave a voicemail with your questions and comments in advance by calling 210-615-8982. During the live show (12 - 1 p.m.), call 210-614-8980, email thesource@tpr.org* (mailto:thesource@tpr.org) *or tweet at @TPRSource (http://twitter.com/TPRSource).*

**Audio for this segment will be available by 3:30 p.m. on Monday, Sept. 18*

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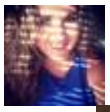
# Crossroads homes built to withstand Hurricane Harvey



By Kathryn Cargo
Sept. 17, 2017 at 9:26 p.m.
Updated Sept. 18, 2017 at 6 a.m.

Russell Cain points at clips installed during construction to hold together the rafters of a home in order to help make the structure acceptable for hurricane standards. Olivia Vanni for The Victoria Advocate

PORT LAVACA - The day after Hurricane Harvey hit, a feeling of relief filled Chris Kovarek's mind when she and her husband, Mike Kovarek, saw a video from their friend showing their 1,500-square-foot house unscathed.

"I was amazed," she said. "I was scared to death. What in the world were we going to drive up to? Seeing that video, it seriously looked liked any day at our house."

After repairing their prior home after Category 1 Hurricane Claudette hit the Texas coast in 2003, they wanted to ensure their next home would be able to withstand a hurricane. The couple moved into their new home in fall 2016 after working with Port Lavaca homebuilder Roland Cantu to make it compliant with the Texas Windstorm Insurance Association.

Many homes in the Crossroads that withstood Harvey fairly well have reinforcements to make them TWIA-compliant, which better prepares a home to fight against a hurricane.

## Certificate of Compliance

• Any building constructed, altered or repaired on or after Jan. 1, 1988, must meet windstorm building code requirements in order to be eligible for coverage through the Texas Windstorm Insurance Association.

• Any homeowner seeking to obtain a Certificate of Compliance for ongoing

improvements should notify the Texas Department of Insurance before the improvements begin so a TDI-appointed inspector can approve the improvements.

• To obtain a Certificate of Compliance for completed improvements, the homeowner must have the improvements approved by a Texas-licensed engineer.

• For more information on the certification process, visit twia.org or tdi.texas.gov.

SOURCE: TWIA.ORG

"We did not have any damage other than two trees leaning over," she said.

Their prior home was solid wood and built in the late 1950s. After Claudette, they had to replace the home's roof, some siding and porch. Their new home is the only one in their neighborhood with a metal roof.

"I wanted a metal roof because you get a little bit of an insurance break," said Mike Kovarek. "A metal roof has longer longevity and lifespan, and we figured they're stronger than shingle roofs."

Cantu had to have Texas Department of Insurance windstorm field inspectors or state-licensed engineers inspect the house during the building process, he said.

All of the 12 homes Cantu has built are TWIA-compliant.

Before he starts building, a certified inspector or engineer has to review his winstorm plan.

"The engineer not only looks at your foundation, they also look at the walls and decide where the heaviest wind load is going to be and tell you what you need to do to help the house withstand that wind," he said.

Windstorm-compliant structures have hurricane anchors to secure the roof to the wall and the wall to the foundation, said Jerry Hagins, Texas Department of Insurance spokesman. Where the code requires windborne debris protection, structures have windows, doors and skylights that are impact-resistant or protected by an impact system. Wind load-rated garage doors are used and often impact-resistant ones when required.

"It's important to have the repair work inspected while it's ongoing," Hagins said. "Once a roof is on, you can't really see how the decking was installed and some of other things that would be hidden by shingles."

Homes that are designed and inspected to hurricane construction requirements and homes that have building products that also meet codes perform better during hurricanes, Hagins said.

Compliant homes also have sheer walls, which are walls that have plywood behind the Sheetrock from the roof to the foundation, Cantu said.

The more windows a wall has, the more engineering has to go into building the wall to support it, Cantu said.

"You can imagine the window is the weakest point of the wall," he said.

Windstorm inspections began in 1988, and if a homeowner wants to make their older house windstorm-compliant, they would have to remodel the entire home, Cantu said. Homeowners can still add windstorm reinforcements, or clips, to their walls if replacing them.

Homes that withstood Category 5 Hurricane Carla that struck in 1961 were made with natural wood, which may have helped them through the storm, Cantu said. Many homes today are built with wood from tree farms that have sped-up growth, weakening the wood.

Home location and design are also determining factors when it comes to hurricane damage, Cantu said.

"You can have a square home that doesn't sustain anything and a more rectangle home that is blown down - more area to be pushed on by the wind. The more area, the more damage," he said.

Higher-quality roofs with longer lifespans also help fight against hurricanes.

Roofs usually don't last as long in coastal areas because of the environmental conditions, Cantu said.

"Here in Port Lavaca, the roof has been the main damage," he said. "Once the roof fell in, the water came in. Some of it was the installation, and some of it was just the age of the roof."

Homeowners can figure out which wall the wind hits in their home and add reinforcements to it to help their home withstand a hurricane, Cantu said. They can also add bracing to their attic if it is open.

Homeowners should ensure they have high-quality windstorm-rated windows and doors as well as covers ready to board up before a storm.

"A broken window lets in the high wind, and that pretty much makes your roof come off," he said.

Of the 12 homes Cantu has built in Port Lavaca, only one sustained damage from Harvey, and it was minimal. Water came in through a gas vent after the hurricane took its cover off. It left a water stain on the ceiling.

The Kovareks feel fortunate and are grateful their home did not sustain any damage, Chris Kovarek said.

"We knew we could trust our builders," she said.

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# Analysis: In Harvey, Abbott finds focus in the eye of the storm

> Hurricane Harvey presents the state of Texas with a set of problems that are bigger than politics, a turn of fortune that could be a political boon to Gov. Greg Abbott.

BY **ROSS RAMSEY** SEPT. 18, 2017 8 HOURS AGO

Gov. Greg Abbott briefs the media about Hurricane Harvey damage to the Coastal Bend prior to touring the area by motorcade on Aug. 28, 2017.
Bob Daemmrich for the Texas Tribune

Editor's note: If you'd like an email notice whenever we publish Ross Ramsey's column, click here.

You don't want to call a major disaster a political boon, but Hurricane Harvey blew away some of Texas Gov. Greg Abbott's distractions while coinciding with a reboot in the office he wants to hold for another four years.

The storm is now the central concern of what has often been an unfocused administration. It also shifted the spotlight away from the most prominent alternative to his leadership — Texas Lt. Gov. Dan Patrick, a conservative favorite of some of the GOP's most outspoken activists.

The special session that ended last month was, to put it gently, humbling for the governor. Abbott asked lawmakers for action on 20 issues, including several "wedge" proposals that split the public into groups of "us" and "them." He got about half of what he sought, with notable misses on property tax caps, restroom regulations for transgender Texans and restraints on local governments.

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He and Patrick were more or less in sync. Both ended the session with sharp words and hurt feelings toward Speaker Joe Straus and the Texas House. That's a reflection of where the wedges fell — between the business-oriented Republicans who dominate in the Legislature's lower chamber and the social conservatives who dominate in the Senate.

Patrick himself presents a mild threat to Abbott; the lieutenant governor is popular with the GOP's conservative activists and has been driving the Republican agenda in Austin for more than a year. Abbott's special session agenda might as well have been written in Patrick's office.

The lieutenant governor is effectively the standard-bearer for those movement conservatives, just as the speaker is for the business Republicans.

The governor, who has never faced real competition in a Republican primary, has never had to plant a flag with any camp in the divided Texas GOP: He was with everybody, everybody was with him. Patrick, by accident or design, has forced the governor to cover his right flank, which is over-represented in statewide Republican primaries and is increasingly exasperated with business conservatives like Straus.

At the beginning of the year, Abbott was carefully not taking a hard position on the bathroom bill, which was supported by social conservatives and opposed by business. By

the summer, he had publicly come to Patrick's side in favor of the legislation, even adding it to the agenda of the special session that began in July.

But that was all before Harvey. Compared to one of the biggest storms and disasters in state history, the social and governmental issues that had front-page attention in the summer are small beer.

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In the grand tradition of officeholders challenged by disaster — think of George W. Bush and the 9/11 attacks on New York City and Washington, D.C. — Abbott pulled on a work shirt embroidered with an official seal and went to work, tirelessly fronting the official efforts to save people from the immediate dangers of the storm itself and to help the state rebuild in its aftermath. He's been in the driver's seat since the wind and rain began, an advantageous and remarkably non-political spot for a political leader.

Harvey landed shortly after the special session ended and as the state's new two-year budget took effect. Abbott had taken his lumps in the special session and in the regular session that started the year. Both were marked by a divided Republican majority and — as was true in Abbott's first session in 2015 — by the governor's difficulties getting what he wanted out of the Legislature.

Abbott is the first governor in decades without legislative experience of his own or on his official staff. Worse, it shows. Rick Perry served in the House before he won statewide office, and also had former lawmakers on his official staff for all of his 14 years in the governor's office. So did George W. Bush and Ann Richards and Bill Clements and Mark White.

If you want to deal with a dog, you have to learn to speak dog. And if you want to deal with a Texas Legislature, you have to think like a legislator.

A long-anticipated remake of the governor's organization chart is ready to go, one that will bring some much-needed legislative experience into Abbott's office. He's also recruited Texas A&M Chancellor John Sharp, a Democrat, former comptroller railroad commissioner and legislator, to oversee the state's day-to-day recovery from Harvey.

And Abbott, who has not firmly established a signature issue or cause during his first two legislative sessions as governor, now has something big to fix.

Harvey was awful and the state's recovery from it will take a long, long time. It's a big job, and now it's a focal point for a governor who often hasn't seemed to have one.

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# Harvey oddities: The weird part of the storm

By Amber Aldaco
Sept. 17, 2017 at 9:06 p.m.
Updated Sept. 18, 2017 at 6 a.m.

Two martini glasses and a shaker remain standing on a bar despite the ceiling in the room being blown off by Hurricane Harvey. Contributed photo for The Victoria Advocate

One day in August, Kathy Brooks forgot to bring in her laundry basket from outside her Edna home after putting clothes to dry on her clothesline.

She didn't think about the ordinary household item again until right after Hurricane Harvey hit Jackson County on Aug. 25, when she looked out her bathroom window before heading to work in Ganado.

Harvey made landfall as a Category 4 hurricane with winds of 130 mph, causing boats to turn over, roofs to peel off and trees to uproot.

But Brooks' $2 white, empty laundry basket - for whatever reason - did not move from its spot underneath the clothesline, which was not touching any building or poles. The only difference, she said, was that the basket was upside down in the same spot.

The sight baffled and amused Brooks.

"I had to laugh because I had branches all over the place, and my $2 laundry basket that I forgot and left sitting out in my backyard is still sitting there," Brooks, 58, said, laughing. "I figured it would be 5 miles down the road, but it was still there."

A laundry basket was not the only item to oddly survive the worst hurricane to hit Texas since 1961.

Another Crossroads resident, who did not want their name published out of respect for those who suffered great loss, said a martini glass set was also unaffected by Hurricane Harvey. The martini glass set remained standing, unbroken and filled with water that leaked into the room where the ceiling was gone.

Another resident, Emmett Gloyna, said several trees in his backyard were uprooted and laid across the yard, but the backyard fence remained.

"I'm not sure what happened there. Perhaps a tornado touched down and left, but it was still a sight to see," Gloyna, 82, said last week.

Other residents found out age is just a number when it comes to buildings.

Brandi Ramirez, also of Victoria, lives in a 127-year-old farmhouse off Farm-to-Market Road 236. Fearing the worst in a Category 4 storm, she thought she would be better off seeking refuge somewhere else in town.

"I fully expected the house to be matchsticks," Ramirez, 32, said.

When she returned to her house after the storm that Saturday afternoon, she found it unchanged. Though Ramirez has several pecan trees in her yard, no tree limbs damaged the home or were even on the roof, though large tree branches were found around the home. Not a single shingle was out of place, she said. The windows, which were not boarded up, also remained intact.

The roof of her 20-year-old barn, though, was peeled back and curled up.

"It was like the house was in its own little bubble," Ramirez said.

Victoria County resident Terri Ellis had a similar experience with her wood frame home. At 107 years old, the doors in the house Ellis lives in still have doorknobs that use skeleton keys. Ellis, who lives west of Bloomington in the county, said she did not evacuate for Hurricane Harvey. There was a time during the storm when she felt the house lift up and go back down, and she thought it was the end.

"I'm so glad it wasn't," Ellis, 49, said.

The window screens and back door to the laundry room suffered some damage, and the water heater was loosened, but that was the extent of the damage. Ellis credits the builders of the house from more than 100 years ago.

"They built things to last," she said.

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