

# HOUSTON CHRONICLE

WWW.CHRON.COM

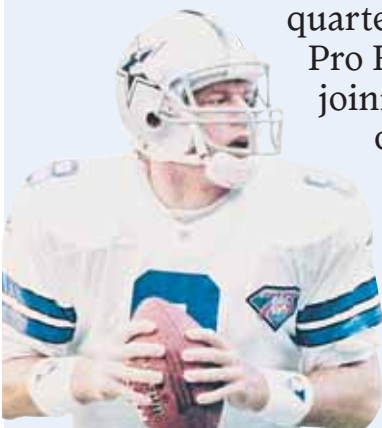
SUNDAY, FEBRUARY 5, 2006

★ ★ ★ ★ \*

VOL. 105 • NO. 115 • \$1.75

## A Texas two-step

Longtime Oilers star Warren Moon becomes the first black quarterback voted into the Pro Football Hall of Fame, joining a star-studded class that also features former Dallas Cowboys standout Troy Aikman.



PAGE C1

◀ TROY AIKMAN  
WARREN MOON ▶

## The sounds of Motown

With Super Bowl XL in the Motor City, we rev up our coverage of the big game with a 14-page preview of the matchup between the Pittsburgh Steelers and Seattle Seahawks.

SECTION K

KICKOFF: 5:28 p.m.  
TV: ABC  
RADIO: 790 AM



BILL COWHER

MIKE HOLMGREN

A SEA CHANGE

# HOT WATER

Our bays are getting **WARMER**, which is a chilling thought to many who make their living along the **TEXAS COAST**



MAYRA BELTRÁN • CHRONICLE

**'IT'S WAY TOO WARM':** In more than 60 years of shrimping in Aransas Bay, Jim Ellis has experienced plenty of ups and downs. He said the current rise in water temperatures is making it harder to catch shrimp.

### HEATING UP

With the water temperature rising in the majority of the state's bays, some of the effects include:

#### Mangroves



Once limited to the South Texas coast, the plants are denser than anyone can remember in the Port Aransas area. One species — the red mangrove — is now as far north as Port O'Connor.

#### Mangrove snapper



This tropical fish species, more common to the southern Gulf of Mexico and Florida coast, was caught in all Texas bays for the first time in 2000-01.

By DINA CAPPIELLO  
HOUSTON CHRONICLE

**ROCKPORT** — Jim Ellis just may be the oldest shrimper on Aransas Bay.

In his 70s, he is nearly 50 years older than his ragged boat, the Blue Mist. He was 3 when his dad, who owned a local live-bait shop, took him out on his first shrimping trip in 1938.

Through the years, Ellis has weathered price slumps, spikes in the cost of fuel, bad weather and the occasional hurricane. But the biggest threat to shrimpers this year, he said, has been the thermometer.

"Temperature will make or break you, and it broke us this year," Ellis said, standing outside Fleming's Bait Shop, the pink shed on the edge of Rockport Harbor he has owned for 11 years. "This is the worst I have seen it for the hot water."

Data collected by the Texas Parks and Wildlife Department bear out what Ellis has experienced at sea. During the past 23 years, the water temperature in the majority of the state's bays, which rises and falls with the seasons and long-term ocean cycles, has increased by nearly 3 degrees Fahrenheit — a warming trend that intrigues scientists but is not easily explained. Though research has docu-

mented an increase in ocean temperatures worldwide, a warming that many scientists think is caused by the buildup of heat-trapping carbon dioxide pollution in the atmosphere, scientists say it is nearly impossible to say global warming is causing the water to heat up along America's coasts. Research has shown that in the

past decade bays from Seattle to Maryland have been getting warmer.

Records dating to 1978 for the Gulf of Mexico document an increase in water temperature of 1 degree.

"Many of the things they are seeing in the open ocean are being seen in shallow-water bay

Please see **BAYS**, Page A16

# NEW ORLEANS FAILURES LED TO CRIME HERE

■ Suspects such as Ivory Harris were released despite charges in violent offenses

By KIM COBB  
HOUSTON CHRONICLE

**NEW ORLEANS** — When Hurricane Katrina hit, Ivory "B-Stupid" Harris was living at 2800 Perdido, the parish jail. It was his home away from home.

The 20-year-old man had racked up a staggering list of arrests in New Orleans, including two on murder charges. But he was never convicted of any

serious crime.

When New Orleans flooded — five days after a local crime commission criticized police and prosecutors for doing a poor job of putting violent criminals behind bars — Harris was one of thousands of inmates farmed out to jails throughout Louisiana.

And when he was released in Shreveport on Nov. 3, Harris became Houston's problem and a key figure in Houston's new crime controversy.

Harris is among 11 Katrina evacuees suspected of transferring their New Orleans turf battles to Houston and carrying out homicides, robberies and kidnappings that began after his release from Shreve-

Please see **HARRIS**, Page A17

## Austria, Mexico battle over 'symbol of power'



AUSTRIAN MUSEUM OF FOLK LIFE AND FOLK ART

**'INCALCULABLE VALUE':** The headdress, which many scholars believe belonged to the Aztec Emperor Moctezuma II, is in Vienna.

■ At stake is the revered headdress called the 'crown of Moctezuma'

By MARION LLOYD  
HOUSTON CHRONICLE  
FOREIGN SERVICE

**MEXICO CITY** — For nearly 500 years, the jewel-encrusted, plumed headdress Mexicans revere as the "crown of Moctezuma" has been hidden away in the private collections of European royalty or behind bulletproof glass in a museum in Austria.

Now Mexico wants it back. And Mexican officials said last month that they would formally petition Austria for the return of the relic, on display in the Ethnological Museum of Vienna. Many scholars think the headdress once belonged to

Please see **HEADDRESS**, Page A12

### THE ENRON TRIAL

## A few pennies can buy deception

By TOM FOWLER  
HOUSTON CHRONICLE

Sometimes a penny is just a penny. But as testimony from last week's Enron trial shows, sometimes a penny can be worth a whole lot more.

On the witness stand, former Enron investor relations chief Mark Koenig told of measures the company took to match or beat analysts' expectations for its quarterly earnings. Adding one or two pennies to its earnings per share kept its stock price climbing or at the very least kept it from taking a hit from Wall Street, Koenig said. Though Enron is alleged to

have taken the practice of earnings management to a fraudulent extreme, it's hardly an uncommon practice, and not always illegal.

Companies have long squirreled away profits into "cookie jar" accounts to smooth rough patches in later periods. Accounting rules give companies some discretion in the practice, although using reserves for just that purpose is now prohibited.

But an obsession with short-term results, fueled largely by a rise in the use of stock-based executive pay in the 1990s and Wall Street's demand for growing profits, led companies to more aggressive

Please see **ENRON**, Page A16

### Enron online

Live coverage: Up-to-date information, plus profiles, photos and more at [chron.com/enron](http://chron.com/enron)

New blog: Lawyers share their perspectives at [blogs.chron.com/legalcommentary](http://blogs.chron.com/legalcommentary)

Forum: Talk about the trial at [chron.com/enronforum](http://chron.com/enronforum)



## Zydeco meets hip-hop

Rooted in Louisiana, the zydeco music scene is branching out in Houston. **PAGE G1**



## Back in the action

In *Firewall*, 63-year-old Harrison Ford proves he can still mix it up with the bad guys. **PAGE 14**

### INSIDE

Crossword ..... **G6**  
Dear Abby ..... **G7**  
Editorials ..... **E2**  
Hale ..... **G8**

Hoffman ..... **ZEST**  
Horoscope ..... **G5**  
Lottery ..... **B2**  
Movies ..... **ZEST**  
Obituaries ..... **B8**



WE RECYCLE

# BAYS: Causes, effects of warming debated

CONTINUED FROM PAGE A1

systems. But I'm not ready to push all of the dominoes over yet," said James Tolan, a TPWD estuarine ecologist, who discovered the Texas warming trend by investigating some of the 160,000 temperature measurements taken in the state's eight largest bays since 1975.

Tolan took averages of the temperature readings collected on each bay every month from 1982 to 2005 and plotted them on graphs. Only two — Sabine and Galveston — are not showing the temperature increase, which is being driven largely by warmer water in the winter months, Tolan said.

Regardless of the underlying cause, some say the warming has led to subtle changes in the environment, shifts so tiny it takes an old sea dog such as Ellis to spot them.

"I've been doing this for 18 years, and I can't tell the temperature is increasing," said Tom Wagner, a state natural resource specialist, who is on the Corpus Christi Bay research team.

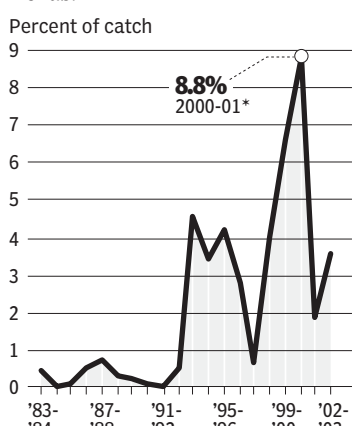
Among the anecdotal evidence are sightings of birds so rare that longtime watchers have had to consult guidebooks to identify them. Mangroves, once limited to the South Texas coast, are denser than anyone can remember in the Port Aransas area. One species — the red mangrove — is now as far north as Port O'Connor.

## 'Cold is good'

But in these parts, where many people's livelihoods depend on the water, it's what is happening in the bays that counts. And changes are being documented there, too.

## SEEING MORE SNAPPER

Surveys of sport anglers fishing Texas' bays from 1983-2003 show mangrove snapper, or gray snapper, becoming more prevalent in catches as bay temperatures rise. In the 2000-01 season, the tropical species was caught for the first time in all the bays in Texas.



\*First time mangrove snapper caught in all Texas bays.  
Source: Texas Parks and Wildlife Department.  
EDWIN LOUIE : CHRONICLE

fish species more common to the southern Gulf of Mexico and Florida coast, was caught in all Texas bays for the first time in 2000-01, according to interviews conducted by the state with sport fishermen. That same year, fishermen reported that mangrove snapper made up 8.8 percent of their catch. In 1983-84, the species represented only 0.40 percent of all fish caught.

"I used to know all the fish. But what I've caught lately, I don't even know what they are," said Bill Brice, who when not fishing helps Ellis run his bait shop.

For shrimpers such as Ellis, water temperature is essential to success. Most shrimp are caught as they move from coastal marshes into the open bays to spawn. But when the water is warm, oxygen declines, causing the shrimp to stay put. Ellis calls this a "fish freeze."

"If you are hot and can't breathe, you are not going to run a marathon," explained Ellis, who as a bait shrimper fishes year-round. "When the water is cool they are more active. Cold is good for shrimping."

Ellis thinks the bays are warming because human beings are polluting the atmosphere with gases that act like the window panes in a greenhouse, trapping the sun-generated heat inside. Last year, according to federal scientists, was one of the warmest on record.

## Making a leap?

But not everyone is convinced that climate change is behind it.

"Recently, we've been spotting more mangrove snapper," said Willy Cupit, a technician for the parks department who has collected samples on Aransas Bay for the past two years. This past summer, he caught juvenile mangrove snapper for the first time.



**STUDY SUBJECTS:** Spot croaker, common in Corpus Christi Bay, are among the fish collected during surveys in the past 23 years that show Gulf bay temperatures increasing.



**LIVELIHOOD:** For the past 11 years, Jim Ellis has owned a bait shop on Rockport Harbor. Ellis, who started shrimping in 1938, bait-fishes from the Blue Mist, sailing in Galveston Bay, to supply the business.

"We have more cuts in the bays now. We have had more droughts," he said. "There are lots of different factors that could be contributing."

Scientists who have documented warming in other bays, including Chesapeake Bay in Maryland, say that without comparing recent temperature increases to natural swings over much longer periods, it will be difficult, if not impossible, to link what is happening in Texas' bays to global warming.

"In a nutshell, if you have only 30 years of data, the skept-

ics will say, 'How do you know it's not part of a natural cycle?'" said Tom Cronin, a geologist with the U.S. Geological Survey in Reston, Va., whose research has shown that recent temperature extremes in Chesapeake Bay exceed those documented in the rings of trees and pollen that are natural recorders of temperature changes across millennia.

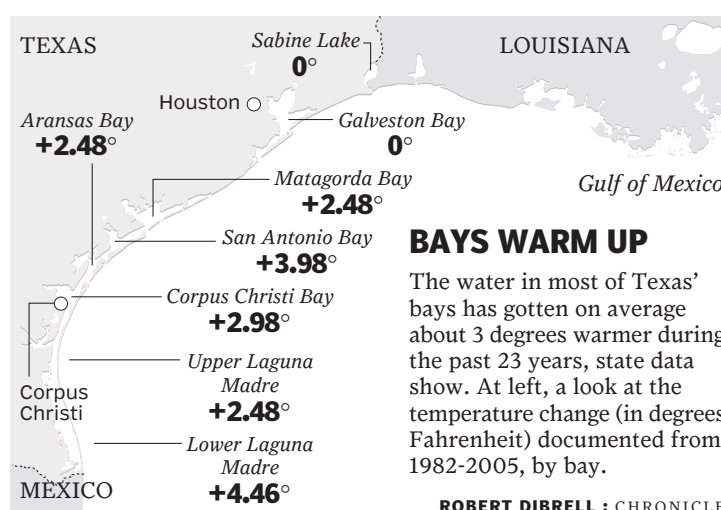
Cronin also cautioned against trying to link the meager temperature rise to species behavior.

"When biologists start jumping from salinity and temperature to . . . species and a whole ecosystem, I get worried," Cronin said. "Animals are complicated, and data are sparse."

## 'It looks the same'

It also is unlikely that the Texas data will provide the answer because the discovery was made by chance, using information collected to assess the health of the fishery. Twenty times every month, state technicians trawl for fish and shellfish, drag a net along muddy bay shores to collect young fish recently spawned and, from Aransas Bay north, dredge to evaluate the oyster population.

"We didn't magically start this 30 years ago to see a trend in water temperature," Wagner said. "We did it for the fishery." Some of the biggest doubters



## BAYS WARM UP

The water in most of Texas' bays has gotten on average about 3 degrees warmer during the past 23 years, state data show. At left, a look at the temperature change (in degrees Fahrenheit) documented from 1982-2005, by bay.

ROBERT DIBRELL : CHRONICLE

are those most familiar with the bays, the people who spend countless hours on the water taking down information. During a recent trip aboard the R/V Nueces in Corpus Christi Bay, three state workers pulled up a net teeming with sea life. The claws of crabs, the iridescent scales of fish and the gelatinous bodies of squid and jellyfish were poured onto an inspection table.

Luis Uballe, a 56-year-old volunteer, began to measure the catch, calling out the lengths of each organism.

"It's going through a cycle, is what I'm thinking," Uballe said. "I don't think it's because people are polluting the air and

causing the greenhouse effect." "I'm out here day after day, season after season, and it looks the same to me."

Back on the docks, Ellis likes to reminisce about the day he got his biggest catch. It was Christmas 2004, and a rare snowfall forced the shrimp to hunker down in the channel. He netted 50 pounds in 10 minutes.

On the side of his bait shop, shrimp swam in pools fed by bay water. The temperature was 65 degrees.

"It's way too warm," Ellis said. "I'd like it at 56 degrees. That's a good temperature for fish and shrimp to move."

dina.cappiello@chron.com

# ENRON: Laws try to fight earnings manipulation

CONTINUED FROM PAGE A1

sive earnings-management techniques.

"The '90s was the slippery slope from managing expectations to managing earnings to outright fraud," said Patrick McGurn, a vice president with investor advisory firm Institutional Shareholder Services.

## Push for quick results

A penny per share may not seem like a lot of money, but it can create the impression that a company is doing better or worse than expected, said Dan Pickering, a longtime energy analyst and principal with Houston's Pickering Energy Partners.

"It's not the penny, it's the perception," Pickering said. "Investors always want to own a stock that's beating expectations, not disappointing."

Recent laws and a renewed focus on corporate fraud appear to have cut back on earnings manipulation, observers say, but the obsession with quarter-to-quarter results has not waned.

"Quarterly earnings are still made up to be too important, in my judgment," said Chuck Hill, an independent researcher who helped fine-tune the methods for gathering earnings projections while running research for Thomson Financial. "There's too much focus on the short term by far."

Companies have always set profit goals for themselves, and they've been willing to bend

over backward to meet or beat them.

Such efforts cross the line when phony sales are generated, for example, if the company's books are left open a few days beyond the end of the quarter to book more deals, or the company lies about where income came from.

Throughout the 1970s and much of the 1980s, earnings management was more likely to be a case of companies creating rainy-day reserves, socking away current profits for use when times weren't so good, said Jack Coffee, a professor at Columbia Law School who specializes in white-collar crime.

If companies earned in excess of what the market expected, "they wouldn't get extra credit for it, so they would use the extra for another time," Coffee said, noting that General Electric and Gulf & Western were among the biggest users of such techniques.

## A lure for executives

The motivation for earnings management changed in the 1990s when companies began to ratchet up the use of stock and stock options in executive pay, Coffee said.

With so much of their pay tied up in the value of company stock, management focused less on the long-term ability of the company to generate cash and more on how to get the stock price to grow every quarter.

One way to do that was to boost revenue by recording the

promise of future sales as if they were current.

An example of that may come up in the Enron trial. Enron's broadband division tried to book income from a 25-year deal with Blockbuster Video years before it would create any real money.

Companies also try to manage the expectations of Wall Street through a variety of methods.

Before it was outlawed by the Securities and Exchange Commission's Regulation Fair Disclosure, aka "Reg FD," companies would regularly tip off the most important analysts when results would be better than the official estimate.

"That would lead to more bullish analyst reports on the companies, which would help the stock price," said Stephen McClellan, a former computer services analyst for Merrill Lynch. "We wouldn't change our estimates on the company, but we'd say in the reports the official expectation was conservative."

## Punishing analysts

A practice that still appears to be common is for companies to regularly give guidance a few pennies below what they really expect, McClellan said. This way the company can say it beat Wall Street estimates, a practice that Microsoft was often accused of.

Companies also had been known to use the threat of withdrawing their banking business

*"It's not the penny, it's the perception. Investors always want to own a stock that's beating expectations, not disappointing."*

—DAN PICKERING, energy analyst

from firms if their analysts weren't appropriately enthusiastic about the company.

The Enron trial already has provided testimony on how former Chairman Ken Lay and former CEO Jeff Skilling sought to freeze former Merrill Lynch energy analyst John Olson out of conference calls and meetings. Congressional investigators concluded Merrill Lynch forced Olson out of the company because of his negative outlook on Enron.

Such practices may not be a thing of the past, either. A recent survey by IR magazine, a publication for the investor relations industry, found that 38 percent of analysts say they have been shut out by a company after they downgraded their rating of the company's stock.

## Pressure for mutual funds

The pressure to focus on the short-term results and the ensuing stock price doesn't come just from inside companies.

McClellan noted how in the 1980s, as more money poured into mutual funds, the level of competition between fund managers became more intense.

ecutive management team.

"There's greater threat from the SEC, from (Sarbanes-Oxley), from criminal prosecution and private class actions, but not any one of them is decisive," Coffee said.

But McClellan said companies are turning to different tactics. For example, while storms, customer bankruptcies and the shutting-down or selling-off of parts of a company have always occurred in the business world, companies now look to turn every such event into something that should be considered out of the ordinary. "So many chunks of quarterly earnings are smoothed out by companies claiming certain items should be overlooked as one-time events," he said. "Special items are so prevalent now that they're not special anymore."

Companies that try to resist Wall Street's quarter-to-quarter demands can find the effort punishing. Google, which owns the popular online search engine, gives little guidance to analysts and is strident in its long-term focus. But when it missed analyst expectations last week, the company's stock took a huge hit, dropping by more than 10 percent.

"If a company says it's changing its long-term growth rate by 1 percent, that should be bigger news than if it missed its quarterly earnings per share by a penny," Hill said. "But it's not."

tom.fowler@chron.com