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Tidings The Newsletter of the Friends of Perdido Bay

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www.friendsofperdidobay.com

HAPPY EARTH DAY TO ALL

This year Friends' message is "Live Less" - eat less, drive less, use less water, live in smaller homes, use less AC, less heat, have smaller yards, smaller cars, less TV, less computer, less cell phones, buy less. In other words, maybe people should get back to a simpler way of living. It seems that people are so busy buying things, driving their kids to soccer, baseball, or dance lessons that they have lost time to simply enjoy nature. Sitting in the park or outdoors in a lawn chair are pastimes that have been lost in the rush. So live less, but have more time to enjoy the earth.

Over the 25 years that we have been attending Earth Day celebrations, we have seen a change in things. People are more aware of what they can do to be Earth friendly. You see more solar energy. People are recycling. One Saturday morning several months ago, I took some old chemicals to ECUA's recycling hazardous waste program. Even though the drop off site was well organized, so many people had participated that there was a long line and a wait. The attendant told me, it had been very busy since they had opened. People are building homes with more insulation, more efficient heating and air conditioning. Peoples' awareness has improved, but it can still get better.

On the other hand, some things have gotten worse. As we have seen on Perdido Bay, regulation of big industries has gotten worse. The thrust of our environmental agencies seems to be to protect the industries and their jobs, and not protect the environment. Hopefully this will change. But in the meantime, individuals can all do better to protect the earth.

THE RULE RATHER THAN THE EXCEPTION

Back in 1994 when, the paper mill in Cantonment Florida, then owned by Champion, did not meet the terms of its Consent Order which was issued in 1989, Friends of Perdido Bay pushed for the Florida DEP to make the mill clean up or close. As you may remember, Champion was supposed to come into compliance with all state standards by December 1994. Champion had

done virtually nothing to improve their treatment in the 5 years since the Consent order had been issued. To slightly aerate the effluent more, they cleared off some terraced areas down which the effluent flowed prior to their discharge site. That was it. Their impact on Eleven Mile Creek and Perdido Bay was virtually unchanged. Maybe it was worse because they increased their production.

In response to the Consent Order, Champion and their hired expert, Dr. Livingston, undertook a big study of Perdido Bay to find out the causes of pollution. This study is known as the Livingston Study. Of course, we already knew what the cause of pollution was - the paper mill. For years, Florida DEP biologists had been documenting the impact of the paper mill on this bay. Likewise, an EPA study done in 1986 and 1987 corroborated the findings of DEP biologists. One of the biologist (not a DEP biologist) told me it was the worse case of pollution he had ever seen. A Florida DEP biologist testified in court that Perdido Bay is the most polluted bay in north Florida. Perdido Bay is a small bay with a narrow, elongated shape. This is certainly not a bay which can handle pollution very well. We assumed that Dr. Livingston would do an honest study and find what was so obvious to all other researchers. We were wrong. In 1994, Dr. Livingston said the problems in Perdido Bay did not come from the paper mill but rather from the Gulf of Mexico. According to Livingston's computer modeler, the 10,000 to 15,000 pounds per day of very fine solids which the paper mill discharges did not settle out in the bay but just disappeared (magic!). Livingston said it wasn't the pollution load which was causing the problems but rather the layering of lighter fresh water on top of heavier salt water. In spite of the fact that DEP and EPA knew (and know today) that Perdido Bay was (is) being terribly polluted by the paper mill, the mill was not shut down. It had not complied with the Consent Order and continued to violate Florida statues and rules. The paper mill just continued to stall and the Florida regulators continued to give vague reasons why the mill could continue to operate. DEP imposed no fines after 1999 and the bay got much worse. We know of several people who have gotten sick and one person who died after direct contact with the water in Perdido Bay. It didn't matter to the regulators. They continued to allow the mill to operate.

We thought our story was unique. The governmental agencies were protecting the polluter and allowing people to get sick and even die. This was an outrage. We have learned from the many stories which have come out over the 25 years since we started, that our situation is not unique. It is very common. Look at the financial industry. Banks making bets on just about anything is O.K. Being leveraged 60 times over assets is O.K. The financial regulators had rules which were not enforced. Coal mines have safety regulations which are not enforced. In spite of the continual safety violations, coal mines are not shut down and occasionally people die. I was astounded to hear that no coal mine has ever been shut down by the government. The FDA has had directors who don't believe in regulation and intentionally don't provide nearly enough inspectors to do the job. See the video *Food, Inc.* So occasionally some people die of *E. coli* poisoning. "Too bad" is the attitude. This is your government which you think is working to protect you, your environment, your health and your investments. It is not. It is working to protect the special interests who are able to pour millions of dollars into elections to elect their guy (or gal); the special interests who spend millions of dollars in lobbying. International Paper spent \$850,000 lobbying in the 4th quarter of 2009 for among other things, to lobby the government on the Clean Water Restoration Act. No wonder the government is not responding to us. The situation is just too corrupted by money. The question is what can citizens do about this corrupt situation. We must be more involved.

ANY BETS?

In spite of the fact that we have appealed the Final Order granting IP a permit, on March 11, 2010, Florida DEP issued a new permit and new Consent Order to International Paper. This means that IP is operating legally thanks to a flawed ruling by the judge. The Consent Order legally allows IP to violate certain standards for 9 years. But the Consent order also requires that IP undertake certain corrective actions, and there is a timetable in the Consent Order for completing these corrective actions. Within 18 months of the effective date of the Consent Order (March 11, 2010), IP must modify their treatment ponds to activated sludge. They are doing this to try and remove the large amounts of ammonia which they discharge. They are also supposed to create holding ponds for times of heavy rainfalls so that they can hold effluent during rainfall and release effluent slowly after the rain stops. All this construction is supposed to be complete around September 2011. Within 24 months of issuance of the Consent Order, IP is supposed to complete construction of the pipeline and the wetland distribution system and begin discharging effluent to the wetland system. In March 2013, IP is supposed to have the wetland project fully operational. Did I also mention that the judge forgave IP for all past violations!

Any bets as to whether they are actually going to do these projects? Based on our experience with the past Consent Order, I would bet - NO. IP is going to claim that they made cost projections about modifying their treatment ponds 8 years ago. Cost of construction has risen and paper making is not profitable. They will want to put off these improvements to their treatment system. And the DEP will gladly allow them to do this. In other words, the “corrective actions” were false promises and not worth the paper they were written on. I may be surprised. We will see. In the meantime, we will continue with our appeal.

CHANGING THE RULES

While lack of enforcement over the past 20 or more years has been one of the big problems with DEP, today DEP is also changing the rules and lowering their standards. This is being done in a subtle manner. DEP is proposing to add a new classification to the class of water bodies which are called swimmable and fishable. Currently, DEP has five classifications for bodies of water and standards to go with these classifications. The highest classification is Class I water which are drinking waters. These waters have very strict standards. Class II waters are waters which are used for shellfishing. Class III waters are those waters which are used for swimming and fishing. Most of the waters in Florida are Class III waters. Class IV waters are waters which are used for agriculture. Class V waters are industrial use waters. At this time, there are no Class V waters in Florida.

Currently the DEP is proposing to create a new, lower classification for Class III waters. This new classification will be Class III - limited, where certain types of recreation will not be allowed, such as swimming. Class III-limited waters will be restricted to “altered waters” and to wholly artificial waters, such as man-made lakes or canals. What the state means by altered waters causes the problem. Most estuaries in Florida have been altered or dredged. Certainly Perdido Bay could be considered “altered” because the mouth has been dredged and this would let Florida classify Perdido Bay as not useable for swimming, water-skiing, etc.

In order for this reclassification to occur, persons (most likely the polluters or the communities who need the polluters’ jobs) will petition the DEP for reclassification of the water body. The petitioners will then have to do an analysis to determine if the water body should get a limited Class III designation and for which water quality parameters.

This new lower classification reverses years of trying to improve water quality in Florida and allows waters to either remain legally degraded or become more degraded. It is a very serious reversal in Florida's policies. Linda Young and the Clean Water Network have been opposing this change and we have joined their efforts. All this bad environmental policy by our environmental agencies makes a person wonder water is going on there. It appears that the environmental agencies have been taken over by the people who profit from pollution. The fox is in the hen house.

THE BAYOU MARCUS DISCHARGE

Thank you to everyone who attended the public hearing on the proposed permit for increasing the discharge to the Bayou Marcus wetland from 8.2 million gallons per day to 10.25 million gallons per day. Don Palmer of ECUA explained that while there was going to be more effluent discharged to Perdido Bay, the level of nutrients allowed in the old permit was going to stay the same. This is because the Bayou Marcus plant is currently discharging nutrients which are well below the current limits in the permit. By increasing the flow, the amount of nutrients entering Perdido Bay will go up, but it will not exceed the level which is in the current permit. We have decided not to fight this increased flow since they will be meeting the limits which are in the current permit. However if they apply to increase the level of nutrients from the level which is in the current permit, we will fight that. Remember, Perdido Bay has been classified as "impaired" for nutrients and until a nutrient determination is done by the DEP, no additional nutrients will be permitted into the system. Also the EPA will be proposing nutrient limits for estuaries in Nov. 2010 and setting limits in 2011. So ECUA should be very cautious about expanding too much.

There was some interesting information brought out at the meeting. It appears that some of ECUA's effluent is leaving the wetlands and entering the ditch which runs along MaiKai Drive. This should be a no-no and hopefully ECUA will fix this problem. Also, DEP has issued a Consent Order to ECUA to open up the southern portion of the wetlands. This should help distribute the effluent a little better. According to Don Palmer, ECUA envisions an expansion in the future of up to 12 million gallons per day. Perdido Bay residents should watch this plant since it is one of only two sewage plants in Escambia County. I am sure ECUA will try and get as much treatment out of this plant as possible.

Membership and Renewals

Tidings is published six times a year by Friends of Perdido Bay and is mailed to members. To keep up with the latest news of happenings on Perdido Bay, become a member or renew your membership. For present members, your date for renewal is printed on your mailing label.

Membership is \$10.00 per **year per voting member**. To join or renew, fill out the coupon to the right and mail with your check to the address on the front.

Friends is a not-for-profit corporation and all contributions are tax-deductible. Funds received are all used for projects to improve Perdido Bay. No money is paid to the Board of Directors, all of whom volunteer their time and effort.

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