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# Tidings

The Newsletter of the Friends of Perdido Bay

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[www.friendsofperdidobay.com](http://www.friendsofperdidobay.com)

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## **BACK FOR ANOTHER YEAR**

We hope this new year finds you well. As always, we are hopeful that something good will happen - like maybe International Paper will close. We used to say “clean up” but I don’t think a “clean up “ is possible. A “close”, maybe. International Paper’s permit ran out in 2015, but the DEP and EPA keep allowing them to operate. IP’s Consent Order ran out in 2019. I don’t know if Consent Order’s are extendable, but the whole thing is absurd. For the past 35 years, the paper mill in Cantonment Florida has never met standards. Their effluent is more toxic than ever. But they are still operating. By staying around so long, Friends of Perdido Bay has been able to call the bluff of our government and its supposed environmental regulations. Our government just plays along with what industry wants, not visa versa. And our bay has been the victim of this deceit. It certainly is a sign of how corrupt our government has become. Or maybe it always was. We just didn’t notice.

I was going through some old papers the other day and came across some of the early literature from our 35-year fight. When Champion applied for their operating permit with variances in June 5, 1987 for discharge to the headwaters of Elevenmile Creek, they assumed they were in compliance with all environmental rules and laws. I don’t know how they could have assumed that. Discharging whopping amounts of oxygen consuming materials and solids into one little creek where papermill discharge was practically the entire flow of the creek, didn’t need any calculations to know the paper mill was going to cause low dissolved oxygen. We started to look through DEP (it was DER in those days) files. In short order, we came across reports about low dissolved oxygen in the creek and degraded life. These reports had been written by the 3 biologists who worked in the Pensacola DER office. So some of us applied for an administrative hearing. Florida’s administrative procedures act allows citizens to challenge their government. It mirrors the federal administrative procedures act. It was an

amazing bit of legislation which became law in 1946. It might have been passed to keep people from storming capitals with clubs.

The challenge must have taken Champion by surprise. It took the DER by surprise too. The administrator at DER, Bob Kriegel, didn't realize Champion was causing violations in Elevenmile Creek. That is why he O.Ked the permit. It wasn't until EPA forwarded results of their studies in Elevenmile Creek and Perdido Bay in August 1988, that DER realized that there were water quality violations in Elevenmile Creek. This was Bob Kriegel's story. But of course, DER knew. But our challenges to the permit had caught DER issuing permits without justification. The 1988 EPA report said that Champion had to reduce their oxygen consuming discharges 8-fold to meet the oxygen standard in Elevenmile Creek.

On October 19, 1988, Champion withdrew their request for a permit with variances. Instead, they applied for a temporary operating permit with a Consent Order. According to the Consent Order, the paper mill was supposed to come into compliance with all state laws by 1994. Well, needless to say "it didn't happen".

In the interim between when we challenged the permit in 1987 and when DER issued the Temporary Operating Permit in 1988, there was a lot of drama. The ex-secretary of DEP, Victoria Tschinkel who was now working as Champion's consultant, approached the group of people who had formed an environmental group, Perdido Bay Environmental Association. She said that Champion would do a three year study on Perdido Bay to determine what impacts Champion was having, **IF** we would withdraw our petitions for a hearing. We would have to wait three years before any more challenges. That was when the drama started. Champion's offer split the group in two. Some people absolutely refused Champion's offer while others, like me and my husband, decided to take their offer. The group of people that decided to work with Champion became the environmental group, Friends of Perdido Bay. That was 1988.

The splitting of the two groups was pretty ugly. There were actuations that we had taken money. None of it was true. We did get a grant from EPA to start a citizen's monitoring program. But we did believe the paper mill lies. Champion was going to do these studies and "correct any problems they were causing". They were going to do more than the "letter of the law; they were going to do the spirit of the law". I never found out what the "spirit of the law" meant, but I can only assume it meant "Make as much money as possible irregardless of the damage you are causing".

Perdido Bay Environmental Association went to the administrative hearing in 1989. They actually won before they got to the hearing. Because of their pressure, DER had to change the permit to a temporary operating permit with a Consent Order. A regular permit was not defensible. The hearing judge said that Champion needed more time to find out how to comply with the state rules and Champion was granted until 1994 to operate their mill without complying. And that is the current state of affairs. Perdido Bay Environmental Association ceased to exist. Trying to settle the legal bills from the hearing were hard. There were a lot of fund raisers. The fact remains - the laws to challenge the government actions are there, but it is expensive. Friends of Perdido Bay continues its existence. Perdido Bay has not gotten better. There is less life now than when we were founded in 1988. But we continue our testing and know what the issues are. There will be no more - Ooops permits.

### **SOME SUCCESSES**

In spite of the fact that Friends of Perdido Bay has not been able to stop the the destruction of our bay by the paper mill effluents, we have had some successes in protecting

the watershed. Perdido Bay is surrounded by a lot of flat land, especially in the south-eastern portion. Southeastern Escambia County is wetlands mixed with uplands. The uplands may have been relict sand dunes from long ago. One of Friends of Perdido Bay's original goals was to protect these wetlands. Wetlands are so important to help prevent flooding and to slowly allow water to recharge the surface waters. When we first started, the wetlands were thought of as areas to drain and fill. In many areas, big, old ditches remain with gigantic cement pipes ready to drain the water away (Jones Swamp). Fortunately county and state governments realized before all the swamps were gone that these wetlands needed protections. Today's rules allow only a small part of the wetlands to be filled if it is absolutely necessary.

Purchasing tracts of land to preserve wetlands along Perdido Bay was another project we entered into with other groups (Friends of the Prairie). The result was the Tarkiln Bayou State Preserve. The state of Florida bought 4200 acres of low lying land which contains four different pitcher plants and other bog plants. The large tract of land across Bauer Road (not on the bay side) drains into Herron Bayou, another tributary of Perdido Bay. All this land is now protected. It is a wonderful place to hike and take pictures. There is a half-mile walk with boardwalk down to Tarkiln Bayou and then a longer hike (6.5 miles) along Perdido Bay. It is part of the attractions of Escambia County. It also kept several developments (with a proposed golf course) from being built there.

The dangers of building in the wetlands is exemplified by an old letter which I recently found in my files. The letter was dated November 29, 1994. It was written to Steve Pitkin, Director of Planning and Zoning in Escambia County, protesting the filling of wetlands along Elevenmile Creek. The developer was requesting an "after the fact" permit for filling 2.6 acres and a permit for filling an additional 6.8 acres along the Creek. The permits for filling the wetlands must have been granted so that the subdivision, Bristol Creek, could be built. The people who bought homes in this subdivision with the filled wetlands were put in danger 22 years later when Elevenmile Creek flooded and ruined many peoples properties and lives. One woman who lives on 10-mile Creek contacted me. Her house flooded during these extreme rain events and said the value of her home is now zero. She had gotten a lawyer and was trying to sue International Paper for contaminating her property with toxic wastes.

There is no doubt that International Paper's exposed ponds sitting at the headwaters of Elevenmile Creek accumulating rain, will overflow. When this happens, all the stormwater will run into Elevenmile Creek. The people who lived in Bristol Creek filed a lawsuit against International Paper after the 2016 extreme rainfall. The charge was negligence. They unfortunately, lost their lawsuit. It would be difficult to say who was at fault in this flooding. I tend to think it should have been the developer or maybe the county for allowing development along the Creek. After this flooding, Escambia County got a FEMA grant to buy out the properties along the creek which had flooded. The FEMA grant was also supposed to re-create wetlands. The project has not been completed as several homeowners did not want to sell their homes for the appraised price being offered.

Another project which attracted Friends' attention was trying to preserve the Perdido River in its wild and scenic state. Many of you may have ventured up the river. It is just a beautiful and wild river with outstanding water quality. While we were never able to get a "wild and scenic" designation from the federal government, much of the land along the Perdido River has been bought by states of Alabama and Florida. The Nature Conservancy has also bought a chunk. The reason that the Perdido River has remained so wild is because the

paper companies owned large tracts of timberlands along the river. These lands remained pretty much undeveloped. When International Paper divested itself of much of their timberlands in 2006, Alabama and Florida bought the land along the river, thereby ensuring their preservation. Perdido Bay is lucky.

### MANIPULATED

For years, Perdido Bay suffered from low dissolved oxygen, especially in the lower depths. The problem with layering of the water masses was highlighted repeatedly by reports of Dr. Livingston and others. This layering, with saltier heavy water on the bottom and fresher water on the top, tended to cut off the exchange of oxygen to the lower depths. When you added all the oxygen consuming material which the paper mill added to the bay, there was a serious problem with oxygen depletion, especially in the deeper waters. Of course, Alabama never recognized this oxygen depletion with depth because the state rules only applied to depths from surface to 6 feet. Oxygen concentrations below 6' were mystery in Alabama.

In the last three years, Escambia County has begun doing monthly water quality testing at two of the old DEP sites - one in the Upper Bay and one in the lower bay. I request the county data. To my amazement, the problem with oxygen depletion has seemed to disappear. Not only has low dissolved almost disappeared, but another rare occurrence is showing up - the water is supersaturated with oxygen both on the surface and bottom waters. Supersaturation is possible, especially if there is an algae bloom. But the supersaturation which is showing up in the county data is not normal - nine out of 16 water samples in 2021 were supersaturated with dissolved oxygen. One sample had 147% supersaturation. Then I noticed that on days when dissolved oxygen was supersaturated, the pH was abnormally high. I ran a statistical analysis on the data. Sure enough, there was a strong correlation (0.83) between % saturation of dissolved oxygen and pH. International Paper is dumping sodium hydroxide down Elevenmile Creek and causing Perdido Bay to become abnormally alkaline. The sodium hydroxide is affecting dissolved oxygen in the bay. This dumping of sodium hydroxide has been reported to DEP, with no response. The oxygen values in Perdido Bay are being manipulated by International Paper. I don't understand the chemistry, but the dumping of sodium hydroxide is illegal.

#### 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 \$20.00 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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