



Friends of Perdido Bay

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Tidings The Newsletter of the Friends of Perdido Bay

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www.friendsofperdidobay.com

Thank you for your support

We must always thank our members for their faithful support of Friends of Perdido Bay. Without your support we would have disappeared long ago which I am sure many people including International Paper hoped would happen. Matter of fact, I think the paper mill which so badly pollutes our bay, was counting on that happening. In the beginning when we were working with Champion (the owner of the mill before International Paper), they told us that most environmental groups like ours only persist for three years. We are going on 38 years and counting. While the paper mill is still dumping in our bay and has done little to clean up, they are operating illegally. The environmental agencies allow them to continue to discharge without fines. We will go into this in more detail in this newsletter.

We also want to say hello to our new members. We will send you a Friends of Perdido Bay sticker which you can display proudly. Everyone's dues and support are critical to our survival. Thank you.

Significant Non-compliance?

As I was surfing the internet one night before Christmas, I happened to land on a site which lists environmental compliance data. To my amazement, the International Paper site had a big red block for certain quarters where IP was listed as being "significantly out of compliance" with their permit. DEP

had not listed any fines or notified us that IP was out of compliance. So I notified DEP. DEP contacted EPA and EPA's response – It was a mistake! IP was only out of compliance with their permit in 3 of the past 10 quarters. Only 3; that wasn't too bad. So if you check now on the compliance website (if the website is still there, the address is: <https://echo.epa.gov/detailed-facility-report?fid=110035614234#enforcement>), the color of the blocks has changed from red to yellow. Yellow is not as bad as red.

Yellow or red, I think this is bad. It turns out that in two quarters of 2023 (this was the last year they reported), IP reported that their effluent was chronically toxic in the 7-day chronic test to *Ceriodaphnia dubia*. *Ceriodaphnia dubia* is a little fresh-water water flea. The effluent wasn't acutely toxic, only chronically toxic which means that this little water flea didn't produce as many babies as it should. Well, so what? This little water flea is an indicator organism and represents a whole ecosystem of animals. If its reproduction is harmed by IP's effluent, then there is a good chance that the ecosystem into which the IP discharges its effluent, is also being harmed.

This is just the tip of the iceberg. IP is only required to test one day in a 3-month period. What about all the other 89 days? Was their effluent toxic the whole 3-month period? We don't know. When IP discharged into Elevenmile Creek (remember IP built a 10-mile long pipeline and started discharging into a wetland in 2012), Friends of Perdido Bay used to test Elevenmile Creek for toxicity. Friends of Perdido Bay found that Elevenmile Creek was often toxic when IP was reporting no toxicity or not toxic on the days when they IP took samples. So, the odds are that IP's effluent is toxic to the water flea and many, many other animals when IP is not testing. Again, so what? It is not killing us. Is it? Maybe. We don't know and will never know in our lifetimes, especially if the government does not fund testing.

This gets to the whole point of my story. Where should public funds be placed? To protect the environment? To protect public health? Congress has a mandate to protect public health. The environment, not so much. Might as well just get rid of that onerous agency. It hasn't helped us much on Perdido Bay anyhow. Please note, this is not my position

Do You Like Seafood?

That may seem like a crazy question. Most people like seafood. We all know that fish is better for you than meat, as it doesn't contain artery-blocking fat. But how much of our seafood is local? I don't really have any statistics about how much of the seafood found in the grocery stores is local. All I know is what I see. I see "fresh" shrimp from

Indonesia and India. I see Joe Patti's selling freshly unfrozen fish from the Caribbean or the grocery stores selling frozen Tilapia from Vietnam and China.

That is an interesting story – the Vietnamese who live in houses built on stilts in the Mekong River Delta, raise these fish in nets underneath their houses. This is their living. Around the Mekong River Delta are very modern fish processing plants built by the Vietnamese government (which is communistic) or perhaps by USAID. These fish which are grown underneath these houses on stilts, are then brought to these processing plants, frozen and then sent to the US. The frozen packages look great, but who knows about the fish? These Vietnamese people had no plumbing and being at the end of the Mekong River which runs from China, can carry just about anything (even a lot of dead bodies). The fish are not tested for heavy metals or anything else. When you can just throw your leftovers into the river for the fish food, you certainly don't want to swim in the river. How about eating the fish?

I hope you are getting my point. While we want to bring jobs back to the U.S., we also want to bring our source of seafood back to the U.S. We won't be able to bring seafood back to the U.S. unless we begin to protect the places where our fish spawn and grow up – in our estuaries. This is critical. We can not use our estuaries as dumps for toxics and garbage which our industries don't want to clean up. While many of our industries left the U.S. for cheap labor and less regulation overseas, our seafood is stuck here in the U.S. with no protection.

You only have to look at Perdido Bay to see how bad the situation is. Do you see shrimp boats plying the bay for shrimp? No. Do you see fishermen lining the shore and the docks to catch specked trout or redfish? No. Or mullet fishermen riding along the shore to throw their net? No. I am old enough to remember it used to be this way. Maybe I am too old. But I am not old enough to remember the oysters that used to live in the upper bay in 1883 (see our website for the oyster bars). That is the problem for the paper mill, some of us are old enough to remember how prolific Perdido Bay used to be and still could be. And we won't forget that memory. That ought to be the motto of Friends of Perdido Bay – “We Won't Forget”. We know that there are a lot of you out there that remember. Thank you. The EPA wants you to forget how nice Perdido Bay could be.

Get a Lawyer!

I was lamenting the fact that the environmental agencies just don't enforce the rules and fine the polluters like IP, for violations to the Clean Water Act; like the failing toxicity tests which I tried to explain in the previous article, is a big deal. Some people think I am wasting my time trying to get our government to do its job. Maybe they are right. They have told me – “Get a lawyer and sue IP for the damages”. Well, we have tried that.

Back in the day, 1992 and 2000 to be specific, the homeowners on Perdido Bay tried to sue the papermill (at that time owned by Champion) for damages they were causing to our properties. Using “class action” lawsuits, a group of people on Perdido Bay claimed that the paper mill was causing damages to our property by the emissions of chemicals, like dioxin and heavy metals. We saw a decline in fishing and we didn't like the foam, scum and dark water which showed up at our beaches. Actually, the bay looks better now but it

seems to be more toxic than in the “old” days. I will explain what happened to these class action lawsuits.

Right after Bill Clinton was elected in 1992, my husband and I were approached by a local attorney who said there was a law firm, Burr & Forman, from Birmingham, AL, which was interested in suing Champion for \$5 M. The release of dioxin by bleaching paper was a big deal in those days and was the main issue in our proposed lawsuit. You don’t hear about dioxin these days, even though IP is still allowed to emit dioxin in their permit. The last time Friends of Perdido Bay tested the sediments of Perdido Bay in 2021, we still found dioxin (9-11 ppt). But the media does not want to talk about dioxin; it is a subject which has disappeared.

My husband and I were excited about filing the lawsuit. We were more interested in getting injunctive relief, which was a proposed part of the lawsuit, than in any monetary settlement of the lawsuit. We figured injunctive relief would stop Champion from dumping in our bay. My husband and I were chosen as the Florida class representatives and Bob Donnenwirth from Lillian, AL (I think he is now deceased) was chosen to represent the folks from Alabama. The lawsuit was filed in Baldwin County Alabama before Judge Partin. The first thing which had to happen was the Judge had to decide that the 2,000 residents plus were a class of similar people with similar interests and the legal representation was adequate. Judge Partin did certify that the lawsuit was a common class, and the legal maneuverings commenced.

The lawsuit never went to trial but was settled in 1995. But injunctive relief, the most important part of the lawsuit, was removed. We don’t know how it happened, but by the time the settlement proposal came in, our lawyers were calling the shots on the case. They said that the settlement was very good and would prevent dioxin from being released. Of course it didn’t, but we, as plaintiff’s representatives, were powerless to complain. Everyone in the class action lawsuit got a monetary settlement of around \$2,000. The attorneys got around \$2 M (remember the costs incurred). The lawsuit didn’t do much.

The 2000 “class action” lawsuit was filed in Escambia County Florida by a bunch of attorneys which included the Levin Papantonio Firm and the Robert Kennedy Jr. firm. In 2006, attorneys for both sides filed a stipulation (see our website) which said there was no common complaint. It killed the lawsuit, and it was dismissed with prejudice. Lawsuits have not helped us, and it is hard to know for whom attorneys are actually working.

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 \$30.00 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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Renewal

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