



Bulk Rate
U.S. Postage Paid
Permit No.1013
Foley, AL 36535

Friends of Perdido Bay
38 S. Blue Angel Parkway
PMB 350
Pensacola, FL 32506
850-453-5488

ADDRESS SERVICE REQUESTED

Tidings

The Newsletter of the Friends of Perdido Bay

June 2020

Volume 33 Number 3
www.friendsofperdidobay.com

Jackie Lane -Editor

Thank you for your support

Your support has been critical in allowing Friends of Perdido Bay to continue fighting the illegal operations of the International Paper papermill in Cantonment, FL. This is a mill which continues to operate without a permit because they can not meet water quality standards in the wetlands into which they discharge or in Perdido Bay. It is our government which allows this to continue and allows our bay to be degraded. When was the last time you caught a redfish or a trout in Upper Perdido Bay? Or saw shrimp boats plying the waters for shrimp? This used to be a premier fishing and shrimping bay. But no more. We may not have been able to stop the papermill and its destruction, but we are trying and learning a lot about who runs our government. Maybe IP will get the message.

This is very old story. For years, since the early 1970's people have been complaining about the discharges from the paper mill. There have been lawsuits, administrative hearings over the paper mill's discharges. In 1970, the papermill was ordered to investigate how to completely close up their system. In 1974, there was an adjudicatory hearing on the first EPA permit issued to St. Regis. They were ordered to investigate technology to clean up and reduce their wastes. At that time, St. Regis was discharging a BOD of 4,100 pounds per day and total suspended solids of 5,700 pounds per day. Production was 500 dry **tons** per day. Eleanor Stewart testified that her husband (now deceased) had lived on Perdido Bay before the papermill started using it as a dumping ground. It was crystal clear.

Today, the mill in Cantonment, FL produces 2,300 dry **tons** of pulp a day. The average allowable daily BOD is 5,100 pounds per day and the total suspended solids is 8,000 pounds per day. Not much advancement there, accept for the paper company. The paper industry has just simply refused to clean up and they have used politics to back their cause against the people. It is the Golden Rule - "those that have the gold, rule".

A Voice from the Past

We still have a few of the many warriors left who fought St. Regis in the 1970's. I asked Mr. Gamble who lives in the lower bay and is a member of Friends of Perdido Bay to write a paragraph or two about his experiences. Mr. Gamble is an attorney in Selma Alabama.

"About 50 years ago proceedings which I attended were held in Gulf Breeze and Pensacola, Florida, in the matter of the pollution of Perdido Bay. I have been asked to recall my memories of those hearings. I remember them vividly but after all these years, the details are a little hazy.

Prior to 1970, the property owners and users of Perdido Bay had become alarmed by the deterioration of the Bay. It was obvious to the owners that the contamination was from the discharge from the St. Regis Paper Company at the head of the Bay. But nothing had been done about it. The Alabama residents requested Albert Brewer, Governor of Alabama, to take action. He requested the Secretary of the Interior to call a conference to consider pollution of the interstate waters of Perdido Bay. The agencies of Florida and Alabama responsible for water pollution control were notified. So the conference proceeded chaired by the representative of the U. S. Department of Interior with the two State agencies participating.

Jo Ann Allen, whose family were long-time residents of Soldier Creek on Perdido Bay, spearheaded the efforts that resulted in the conference. The Perdido Basin Anti-Pollution Convocation was formed, and Mrs. Allen introduced at the hearing signatures of more than 1,000 people requesting the pollution control agencies to intervene to prevent present and future pollution of Perdido Bay. The January 1970 study by the Southeast Water Laboratory was introduced into evidence. It established conclusively that the wastes effluent from St. Regis was the major cause of the pollution in the Bay as the property owners had said.

My role in the proceedings was very minor. St. Regis had attorneys from New York, Jacksonville, and elsewhere. I was a young lawyer supporting the landowners and Bill Baxley, Alabama Attorney General, appointed me as a special Attorney General for the State so I would have an official role in the hearings and could assist his office (without pay by the way). I worked with John Bottcher, an even younger lawyer, who represented the State of Florida. John was very helpful and supportive of the efforts to control pollution of the Bay. He, along with others, went to the mouth of Eleven Mile Creek and saw first hand the effluent from St. Regis being dumped into the Bay. The volume of partially treated pulp wastes constituted most of the flow of the creek.

At the hearings, dozens of people testified passionately about the beauty and condition prior to St. Regis and after. Of course, I personally remember the plentiful flounder, crabs, and other wildlife in the bay, that I enjoyed as a boy.

The hearings resulted in a finding that St. Regis was the primary cause of pollution, which had become obvious. In fact, the St. Regis group in effect admitted it and it became a question of how quickly they would eliminate the discharge.

The recommendations were, among other things, that: 1. St. Regis shall reduce by June 1, 1971, the level of discharge or else reduce plant production level as necessary; 2. materially remove foam causing constituents by June 1, 1971, and report monthly beginning April 1, 1972, on its progress; 3. reduce the color of its waste discharge to meet the water quality standards of Florida, Alabama, and the Federal Government, and report to the conferences by February 15, 1972, its finding or methods for removing color from its waste discharge.

The attorney for St. Regis appealed the findings and recommendations of the conference and a hearing was set in the Federal Court in Tallahassee. Jo Ann Allen and

I drove down U.S. 90 to attend the hearing and oppose the appeal. When we got there, the St. Regis attorneys announced that they were dismissing their appeal.

The encouraging thing about this conference was that the Federal Government and both the States of Florida and Alabama were cooperating to take strong actions to address the pollution of Perdido Bay. The discouraging part is that, except for St. Regis putting in holding ponds to filter its discharge, apparently there was no follow-up to the meeting of the other requirements. After a few years, I tried to obtain records of the proceedings and its follow-up from the State of Florida and was told they were not available.”

As you can see from Mr. Gamble’s article, the issues of pollution of Perdido Bay by the paper mill are not new. St. Regis did reduce some of their pollution - like color, but increased other pollutants like chemicals which cause toxicity. Since the 1970's, our environmental agencies and politicians have done little to hold the paper mill accountable.

The Consent Order/Permit has been Stopped Temporality

The Florida DEP had extended International Paper’s permit which expired in 2015, through a Consent Order issued in 2010. This Consent Order expired in April 2019 but was then extended by the DEP until April 2020. In April 2020, the Florida DEP issued a new Consent Order because IP’s effluent has been continuously toxic since 2012. This Consent Order fined them for these failed toxicity tests and ordered that they investigate if the 5 million gallons a day of reclaimed water they getting from Emerald Coast Utilities Authority was causing the toxicity. The Consent Order/permit gave IP another two years to do these studies. Do you see a pattern here? More studies/more time to operate?

I have filed a petition for an administrative hearing on this Consent Order. It is stopped. In my Petition for an administrative hearing, I allege that IP is just stalling for time. It is very unlikely that ECUA’s reclaimed water is causing the toxicity. IP knows very well why their effluent is toxic - they turned down their aerators to save money and they are getting increasing amounts of sludge as part of the effluent. It is well known in paper mill literature that aeration in their treatment ponds is necessary to reduce toxicity. It is also well known in the paper industry that toxicity is associated with paper mill sludges. In 2012, IP went to a slightly new system of treating their wastes called activated sludge. This new process produces a sludge which does not settle well. I believed this was the reason IP went into a wetland where their sludges would settle. The little lakes - Tee and Wicker Lakes are just settling basins for this slow settling sludge. Friends of Perdido Bay have found increased levels of PCB’s in the sediments of these lakes as well as declining life. The slow settling sludge and its affect on these lakes was an issue at both administrative hearings in the mid-2000's. The reason they probably turned down their aerators was to try and help the sludge settle. They can also add chemicals to help the sludge settle.

The toxicity issue certainly should not have surprised International Paper. Since 2012, IP has been under a Toxicity Control Plan. In a preliminary toxicity evaluation (2013), IP’s consultants found 23 compounds which were potentially toxic. Of these 23, 15 were found in concentrations to be toxic. Many of these compounds come from pine trees and are compounds you have never heard about i.e., didecyl dimethyl ammonium chloride. But more importantly these compounds are found in the paper mill sludges. The toxic sediments of Perdido Bay haven’t gotten much notoriety recently. The last study on toxic sediments, entitled “Gulf of Mexico Toxic Substances and Pesticide Characterization Report” was a draft report published by

an EPA consultant in 1993 using EPA’s sediment data. Perdido Bay ranked #1 in having the most contaminated sediments in the Gulf of Mexico, ahead of badly polluted bays such as Galveston Bay. (I will post this list on our website.) The EPA has disavowed this study and has refused to release any more sediment toxicity data on Perdido Bay. I have tried through a Freedom of Information Act request to get data. The Gulf Breeze Laboratory told me it didn’t exist. The EPA laboratory in Gulf Breeze Florida had been doing extensive sediment testing in preparation for setting limits on certain compounds in sediments. This sediment testing has stopped at the EPA lab in Gulf Breeze and they are now focused on population growth patterns and pollution.

The location of these contaminated sediments in Perdido Bay is most likely in the area north of Innerarity Island. This area of the bay forms a pocket which is poorly flushed and traps much of the particulate matter coming from the north end of the bay. This area had been the repository of much of the historical dumping of the paper mill sludges. What should be done about these contaminated sediments is hard to say. This is probably a potential superfund site. But what is worse is that the paper mill is still allowed to release these sludges into the bay.

Lawsuits are no longer an option

I don’t know if the presence of these toxic sediments will be known, but if they are, lawsuits against the paper mill will not happen. I recently have been speaking with Chris Johnson, Ester Johnson’s son. He is still active in his fight against the paper mill and he told me that he had contacted Carole Moore of the Levin law firm to try and get some lawsuit going. Carole Moore told Chris the lawyers’ hands are tied and they can’t file anymore lawsuits. In 2006, the lawsuit which Ester filed against IP was denied “class certification” by the Courts and the case was dismissed with prejudice. The case was denied class certification after attorneys for both sides stipulated (this stipulation will be posted on our website) that there was “no class” and that the toxic material washed on to peoples’ properties after hurricane Ivan did not come from the paper mill. It did. But both sides wanted to get rid of the toxic sludge complaint. And they did. I believe this lawsuit was a “railroad job” to barr anymore lawsuits, especially for toxic sludges on Perdido Bay. Unfortunately, Ester was used by people she trusted.

<p>Membership and Renewals</p> <p>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.</p> <p>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.</p> <p>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.</p>	<div style="display: flex; justify-content: space-between;"> <div data-bbox="862 1356 982 1413"> <input type="checkbox"/> New </div> <div data-bbox="862 1419 1266 1476"> <input type="checkbox"/> Amt. Enclosed\$ _____ </div> </div> <div style="display: flex; justify-content: space-between;"> <div data-bbox="862 1444 1024 1476"> <input type="checkbox"/> Renewal </div> </div> <hr/> <p>Name</p> <hr/> <p>Address</p> <hr/> <p>Phone (_____) _____</p> <p>e-mail _____</p>
---	---