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## Tidings The Newsletter of the Friends of Perdido Bay

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Jackie Lane -Editor

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### **General Meeting - October 28 beginning at 7PM at the Lillian Community Club**

Friends of Perdido Bay will be having a general meeting to discuss several issues which are going to be on the ballots in Florida and Alabama. In Alabama, a storm water fee is being proposed to help fund storm water projects. In Florida, there is a proposed constitutional amendment which requires a referendum each time a county or city changes their comprehensive planning document. See the articles in this newsletter about both ballot issues.

We will also have a speaker. We have invited **Linda Young, from the Clean Water Network** who will be talking about recent events in the Gulf Oil Spill. She has a lot of good inside information which usually does not appear in the news media.

So we will see everyone at the meeting: **October 28, 2010: 7 to 9 PM at the Lillian Community Club in Lillian, AL.**

### **Appeal of IP Permit is on-going**

Our appeal of the administrative hearing which we lost last summer is still going on. It will be at least several months to a year before the Appeals Court makes its decision, we think. Even though the Florida DEP has issued the permit to build a pipeline to the wetlands, the permit is still on hold while the appeal goes on. Maybe this is just what IP wants. The profitability of the paper industry is cyclical. Many analysts are saying that the paper industry is at the top of a profitability cycle and will soon begin losing money again. For IP, this may not be a good time to build a wetland treatment system.

However for the past several years we have begun to wonder if the paper mill is really going to go to a wetland discharge. We have seen indications that IP would like to stay in Elevenmile Creek - the creek to which they currently discharge. It certainly would be cheaper. At one time, to stay in Elevenmile Creek would have been impossible. But the Florida DEP has loosened some of its rules which would help the permitting. Right now, Florida DEP is trying to set a site-specific alternative criteria (SSAC) for dissolved oxygen in Elevenmile Creek. This means that the low dissolved oxygen which IP is causing in the creek would be termed "natural", or not man made ("anthropogenic" in scientific terms). DEP's attempts to get an SSAC for Elevenmile Creek are being supported by the

faulty modeling of the creek which was done by Tom Gallgher, and DEP's misconstruing of the results of the modeling. In 1994, DEP tried the same trick. However the rules weren't so loose then.

Friends of Perdido Bay will block any attempt by DEP and IP to change the dissolved oxygen standard in Elevenmile Creek. We have oxygen data taken in Elevenmile Creek during times when the paper mill shut down. During mill shutdowns, Elevenmile Creek had no problem meeting the minimum state standard of 5 mg/liter for dissolved oxygen. During the first administrative hearing, we had old timer, Alex Zeliemus, testify about the crystal clear quality of Elevenmile Creek before the paper mill ruined it. To suggest that the natural dissolved oxygen is below 5 mg/l is a new low for DEP integrity.

Recent measurements of dissolved oxygen in upper Elevenmile Creek, show that the minimum state standard of 5 mg/l was being met at the time of testing. Why, we do not know. The creek still looks terrible. But the dissolved oxygen is up. We have also run other water tests which we will report about in the next newsletter.

Another possible scenario which IP may be considering is diluting their effluent with ECUA's domestic waste water taken from the new wastewater treatment plant which is just over the hill and east of the paper mill. ECUA has built a pipeline to the paper mill from this plant which has the capacity of carrying 11 million gallons per day (MGD) to IP. ECUA has told us that IP will accept 5 MGD, but there was no indication of just how IP was going to use the 5 MGD. Bill Evans, the permitting engineer from DEP, has said that IP is not permitted to use ECUA's effluent as simply dilution water. We know how DEP's statements change. Even so, there are several other parameters which IP is currently violating in Elevenmile Creek for which dilution would not be an answer.

Bottom line is - we are still fighting the same battle we have been fight since 1988. The Florida DEP with the help of EPA is trying to give the paper mill a permit to operate. Real solutions exist. A mill in Australia, which is nearly identical in size to IP's Cantonment mill, discharges 500 gallons per day not 23 millions. In the meantime, your Perdido Bay has looked terrible this summer - extremely turbid and murky. But there may be some improvement - Jim Lane has been catching lots of catfish in the bay recently.

### **Dioxin And Heavy Metals Revisited**

Back in the early 1990's, the issue of dioxin was a hot topic for the media and the government. There was money for dioxin testing and reporting results. The media picked up stories about dioxin being found near the outfalls of paper mills which produced bleached paper. Dioxin was found in mullet in Perdido Bay and in various fish and animals living in Elevenmile Creek. Greenpeace brought its media campaign to the Pensacola area to focus on dioxin in the environment. But since the paper industry converted to a different bleaching chemical, chlorate, the media focus on dioxin has disappeared. Our government, particularly, the EPA no longer tests for dioxin in fish or sediments. The paper industry did dioxin testing in their effluent and found "non-detectable" levels in the late 1990's. Since finding "non-detectable" levels, the paper mill in Cantonment Florida has not had to test for dioxin in the environment. Are we to assume that dioxin is no longer present in paper mill effluents or accumulating in the environment? I think not. I am sure the paper industry hopes the public thinks so. Our government, I am sure, also hopes the public thinks so. It is similar to the oil spill. Once the government said the oil is gone, that was it. No more bad publicity for BP or for the beaches of Baldwin and Escambia counties. Lobbying works wonders in Washington.

Dioxin (actually dioxin equivalents which take into account all forms of dioxin and their toxicity) was not found in Perdido Bay sediments in the mid to late 1990's, but then re-appeared in the bottom sediments in relatively high concentrations in 2003 and 2004. In August 1999, Friends of Perdido Bay took bottom samples from 3 locations throughout Perdido Bay. Dioxin in all sediment samples was less than 1 part per trillion (PPT). The sediment sample from the Upper Bay had the highest value of 0.76 PPT. In 2003 and 2004, Perdido Bay sediments were tested again for dioxin. In

2003, the muck from Upper Perdido Bay measured 33 parts per trillion (PPT). In 2004, the muck that was found on beaches in Upper Perdido Bay was nearly the same, 33 PPT. The muck that had washed onto properties from Hurricane Ivan ranged from 12 to 28 PPT of dioxin (from 5 different samples). The DEP target levels for “clean-up” in residential areas is 7.0 PPT. DEP ignored our requests for “clean-up”. Interestingly enough, so did the attorneys who were representing plaintiffs in a lawsuit on Perdido Bay at the time. Our attorneys (plaintiffs attorneys) stipulated or agreed with IP attorneys that no dioxin-laden sludges had trespassed onto our beaches during Hurricane Ivan.

Heavy metals were also measured in sediment samples in 2004. Arsenic was especially high measuring 16 parts per million (ppm) in one sample. This is 20 times higher than the soil target “clean-up” level of 0.8 recommended by DEP. Again when DEP was contacted for help, nothing was done. Of course you have to remember who the Secretary of DEP was at the time - David Struhs. He later became IP’s Vice-President for the Environment. IP was known to be exceeding arsenic levels in their effluent. IP reported to DEP that this arsenic came from the coal which was being used in the boilers at that time.

In 2007, IP converted the paper mill to making mostly unbleached linear board. However bleached pulp is still being made - approximately 20% of the mill’s production is bleached. Friends of Perdido Bay plans to do some more dioxin testing.

The list of health problems from exposure to dioxin keeps increasing. Veterans during the Vietnam War were exposed to dioxin in Agent Orange. Many veterans are receiving compensation today because of health problems the VA has associated with agent orange (dioxin) exposure. Chloracne, non-Hodgkin’s lymphoma, soft tissue sarcoma, Hodgkin’s disease, porphyria cutanea tarda, multiple myeloma, acute and subacute peripheral neuropathy, prostate cancer, respiratory cancers, Type 2 diabetes, heart disease, and chronic lymphocytic leukemia are all diseases for which veterans, who exhibit these diseases and were in Vietnam, can receive disability benefits. Like veterans, Perdido Bay residents were also exposed to dioxin if they participated in any water activities in Perdido Bay, especially during the years 1986 to 1996, and early 2000's. Unfortunately, to receive compensation, Perdido Bay residents would have to file lawsuits, which require lawyers. It doesn’t appear that lawyers are very eager to tackle this problem.

### **An Amendment Florida Voters Should Vote For**

Do you believe in planned development where environmentally sensitive land is preserved, infrastructure is planned ahead, urban sprawl is discouraged, and the value of neighborhoods is maintained? We do. That is why we are encouraging Florida voters to vote for a new amendment to the Florida constitution - Amendment 4. Amendment 4 proposes that a citizen referendum be held every time a change is proposed to a county’s land use plan.

Florida’s attempts to develop planned growth has a long history. Ravaged by urban sprawl, filled wetlands, polluted water bodies, and a greater and greater taxpayer burden to provide infrastructure, Florida has tried repeatedly to have some sort of planning for growth. In the early 1990's, many of you may have remembered going to meetings and discussing zoning. Hours and hours were spent by many, many people to develop each Florida county’s comprehensive land-use plan. A state agency, the Department of Community Affairs had to approve each county’s plan. It was a laborious and contentious process, but eventually each Florida county had a plan. Most plans were pretty good. However, over the years, the plans have been modified repeatedly at the behest of special interests. County commissions and planning boards are packed with the cronies of developers because most local politicians’ election campaigns are funded by developers .

Today, comprehensive plans are empty shells because planning boards change the plans repeatedly. Amendment 4 will stop the changes by the special interests. Changes to land use plans will happen only if passed in a referendum. Citizens will be able to again take control of their communities and decide what they want the community to be like. **Vote for Amendment 4!**

# Baldwin County Watershed Coalition and Baldwin County Amendment No. 1

By Jim Lane

A proposed local amendment will appear on the November 2 election ballot in Baldwin County. The amendment authorizes the state legislature to set up a public corporation for the purpose of managing storm water and authorizing a levy on property in the county to fund the public corporation. The amendment is being promoted by the Baldwin County Watershed Coalition.

What is this all about?

In plain language, if the amendment is approved by voters, property owners will be taxed to fund projects related to stormwater (assuming the Alabama legislature actually sets up the public corporation).

There is little doubt that there are numerous stormwater problems in Baldwin County - after heavy rains, roads flood, houses get flooded, erosion occurs, streams and rivers get muddy, and the bayous and bays get muddy. Even the Gulf of Mexico turns reddish-brown. Most people would agree that these problems need fixing. The basic question is then "Is the establishment of a fee-levying public corporation the best way to fix these problems?"

You might ask, "Aren't the State, the County and the several incorporated towns (like Fairhope, Daphne, Foley, etc.) already responsible for that and don't they already have taxing authority which provides money for that?" The answer to both those questions is "Yes." Then you might ask, "Why don't they take care of it then?" The answer to that question is that they apparently don't have enough money. That situation is the result of the very low taxation rates in Alabama (Alabama is about 46<sup>th</sup> from the bottom out of the 50 states in terms of total tax burden per capita), which is why a lot of people like to live in Alabama.

So, if you are inclined to agree that the stormwater problems need fixing and that the governmental entities could probably use some help to get the fixing done, you might be inclined to vote "yes" on the amendment if you knew a little more about how this public corporation would operate. That's where the water gets a little murky. It's a little like starting a new government layer. The amendment doesn't establish the corporation; it authorizes the legislature to establish the corporation. Who knows what the corporation will look like when the legislature gets through? Who will run the corporation? How will they be appointed? What is the limit of their taxing authority? I'm sure you can think of more questions.

And then a startling question comes to mind: "Why not just have a special referendum to authorize a county-wide tax to fix the stormwater problems?" The county has an organization in place; it is familiar with the problems; and with design and bidding procedures; etc. Why get another group set up to duplicate this? We know how the county leaders are elected. If they don't really work on the stormwater problems, we can elect someone who will (if we put some effort in it). We don't know how the corporation's leaders are elected.

You can read more about this on the website of the Mobile Bay National Estuarine Program: [www.mobilebaynep.com](http://www.mobilebaynep.com). The information in the website is in favor of the amendment.

## 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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