**PART 2: THE 1999 AND 2004 GRAND JURY REPORTS ON WATER QUALITY**

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**The Essential Conclusions of the First District Circuit Court Grand Jury**

First Peoples, White, Black, Latino, Asians; Republican, Democrat, other; conservative, liberal; socialist, democratic socialist, free trader, anarchist; taxpayer or tax-exempt; straight, gay, transgender, or something else; male, female, or something else; corporate executive, country club member, small business owner, trade unionist, sole proprietor, military, unemployed, retired; live in a lakeside or riverfront mansion, in or near a historical district, or public housing, if you live in Escambia County:

* you are a human guinea pig in industrial chemical experiments;
* the paper, chemical, petroleum, and dry cleaning industries have used and continue to use our beautiful water resources as their industrial toilet;
* the paper, chemical, petroleum, and dry cleaning industries have operated on the basis of privatized profits and socialized health and environmental cleanup costs;
* federal, state and local government bodies, have been more solicitous of and responsive to the profits and tax-generation of industry than the health and wellbeing of our babies, mothers, other humans, and all forms of wildlife; and,
* the first line of defense was not the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection, the Florida Department of Health, the Northwest Florida Water Management District, or the Emerald Coast Utilities Authority.

No, the first line of defense was citizens who believed the water environment was seriously polluted; they were being poisoned; and, raised a ruckus by organizing and suing the industrial polluter.

The good reader may recoil in disgust reading the above. How dare an outsider raise these issues and smear Escambia County! But, in undiluted form those are the results from two Florida First District Grand Jury reports issued in 1999 and 2004.

The two Grand Jury reports were based on interviews with more than 100 experts and local residents, plus reviews of court documents, industry files, and other governmental records. Ordinary citizens who live in Escambia County reached these startling and shocking conclusions. The Grand Jury reports were a response to the public ruckus.

I am not asking anyone to take my word for it. Part 2 is based upon almost entirely local sources of information.

Part 1 ended with the suggestion based on several nationwide studies of the siting of waste facilities, coal burning power plants, and hazardous chemical facilities that a broad-based environmental movement aiming to make environmental issues a fundamental political issue that cut across party, ideological, and racial/ethnic lines should focus on a commitment to protect our children, communities, and future; more transparency from industry; more accountable government; a commitment to the highest environmental and ethical standards; and, the participation of concerned and informed residents.

Part 2 brings this finding home and narrows our focus to Escambia County.

Part 3, the final paper in this series, will examine contemporary water and soil pollution issues in light of the 1999 and 2004 Grand Jury reports that clearly assigned blame to industry and business, with the complicit approval of regulatory bodies and local elected officials.

**We Are All Guinea Pigs in Secret, Profitable Industrial Experiments**

Sharon Lerner, a Brooklyn-based environmental journalist, has just written an article at The Intercept on the quest by two of EPA’s scientists to discover if the Dupont chemical company’s replacement for C8—a chemical compound used to make Teflon, in addition to other industrial uses, and a known carcinogen—a commercial product called GenX, was being released into the Cape Fear River in North Carolina. It was only after a “massive class-action lawsuit revealed evidence of C8’s links to cancer and other diseases, [that] DuPont agreed in a deal with the EPA to phase out its use of the chemical.” More than 99 percent of Americans have C8 in their blood. Yes, a team of ten scientists working at five institutions found twelve new chemical compounds classified as perfluorinated chemicals or PFCs. PFCs form a very stable and enduring bond between carbon chains and fluorine atoms.

But, here is where part of the industrial chemical experiment comes in. Based on reports from the Environmental Protection Agency and the Government Accountability Office, Lerner reported that “only 15 percent of new chemical notices contain any information about the materials’ impact on health.” Moreover, Lerner noted, “About 95 percent of new chemical notifications…include information that is protected as a trade secret, a figure the EPA confirmed as still ‘generally accurate.’”

This trade secret information, known legally as Confidential Business Information (CBI), means that even “[the very name and structure of a chemical, which are essential to tracking its presence in food, water, and the rest of the environment and determining how it affects humans, can be claimed as CBI](https://theintercept.com/2016/03/03/how-dupont-concealed-the-dangers-of-the-new-teflon-toxin/).” Lerner reported that manufacturers “have used the CBI shield to withhold the names and identities of 17,585 of the chemicals now registered with the EPA.”

Very few scientists at the EPA have a CBI clearance, and, even if they did, they would legally be barred from sharing whatever conclusions they reached with “the general public, manufacturers who use the chemicals in their products, independent scientists who study the impact of these substances on humans and the environment, and most EPA staff, only a fraction of whom have CBI clearance,” according to Lerner.

In fact, manufacturers have kept even production data secret from the public, though the EPA knows how much is produced. Eve Gartner, a staff attorney at Earthjustice who led an effort to find out more about confidential flame retardant chemicals, told Lerner, “‘By calling production volume data CBI, they’re obscuring the extent of how prevalent a chemical is—and how prevalent exposure is.’… Without this data, said Gartner, the EPA can’t do its job.’”

Not only do chemical manufacturers keep the name, structure of a chemical, and its production data secret, they also keep the health effects secret.

Under the Toxic Substances Control Act (TSCA) “health studies cannot be protected as CBI.” But Lerner reported that in 2012 the chemical company Chemtura “submitted more than 12 health studies to the EPA that it claimed as CBI.” The EPA did not challenge the secrecy of these health effect studies and told The Intercept that summaries were made available to the public.

Eve Gartner, the Earthjustice attorney, told Lerner, “‘Nobody blinked an eye at EPA…It raises a lot of questions. How many other health and safety studies have been submitted to the agency and claimed as CBI?’”

Lerner noted that it is not possible “to answer Gartner’s question, since the information needed to determine whether a CBI claim is justified is itself often confidential.”

And, Lerner reported that the “TSCA offers no way to penalize companies that make false confidentiality claims.” In fact, Lerner learned from an EPA spokesperson that the EPA “has never punished a company for a false claim.”

In other words, we are all human guinea pigs in massive, chemical experiments that generate enormous profits for industry and socialized health and environmental costs for ordinary, hardworking, trusting Americans.

The secrecy of the Environmental Protection Agency extends to the Super Fund sites—the country’s worst environmental pollution sites. There are six Super Funds inside Escambia County, almost all within Pensacola.

In May 2007, the Center for Public Integrity (CPI) reported that there were “[114 toxic waste sites where the federal government has determined that the threat to humans from dangerous and sometimes carcinogenic substances is ‘not under control](http://www.publicintegrity.org/2007/05/18/5612/human-exposure-uncontrolled-114-superfund-sites).’” More than 25 million people live within ten miles of those sites, as well as more than 100 public schools within one mile of those “out of control” Super Fund sites. There are “more than 260 pollutants at the sites where human exposure is not under control” as well as “224 Superfund sites where the migration of contaminated groundwater beyond the site is not under control.”

One of these “not under control” Super Fund sites is located in Pensacola, Florida—on Palafox Street between Brent Lane and Twelfth Avenue.

Formally known as the Escambia Wood Treating Company, known locally as “Mount Dioxin,” the CPI reported that the “EPA has determined that migration of groundwater off the site is also not under control.” It is called “Mount Dioxin” because the EPA’s solution was to create a “nearly 600,000-cubic-yard mound of dirt contaminated with arsenic, dioxin, PCBs and other highly toxic material harmful to human health.”

Citizens Against Toxic Exposure (CATE), the local environmental group consisting of affected residents and assisting scientists, posted this map on their website showing that this Super Fund site is located near the Town and Country shopping center and Booker T. Washington High School. The high levels of dioxin are located in residential areas.

CATE reported (as of 2007) that the underground plume of contaminants included “[high levels of napthalene, pentachlorophenol, carbazole, isopropylbenzene, benzene, vinyl chloride, xylene, chromium, lead, arsenic and other contaminants](http://www.cate.ws/md_groundwater.html).” The EPA’s cleanup plan did not include removing the dioxins from the underground aquifer—the only source of drinking water for Escambia County. The contamination spreads to Bayou Texar, a heavily used area for recreation and fishing, according to CATE.



The CPI further reported that the “[EPA has resisted releasing information about cleanup plans or the sites’ danger to the public other than offering a list of the sites’ locations and a brief description about how people might become exposed](http://www.publicintegrity.org/2007/05/18/5612/human-exposure-uncontrolled-114-superfund-sites)—information buried so deep in the EPA’s Web site that it is difficult to find.”

The CPI revealed that the EPA had refused to provide the following information to the public: a ranking of which sites are the most dangerous; plans for addressing the health threat at the sites; a timetable for cleaning up each site; funding needs for each site; and, whether the EPA is investigating an additional 181 sites for which it has insufficient data.

Moreover, the CPI suggested that the reliability of the EPA’s listing of 114 out of control toxic waste sites was open to serious doubt. They noted that scientists had noticed that at least 47 sites on the list in June 2006 had been removed by October 2006—a period too short to control human exposure. Additionally, 26 sites were added. And, experts told the Center for Public Integrity that “there are other sites not designated as Superfund sites but that have dangerous hazardous waste deposits where human exposure may not be controlled.”

The secrecy of the EPA even extends to the U.S. Senate. In July 2005, Senators Boxer, Durbin, and Obama asked for a review of the uncontrolled sites. They received a vague and incomplete answer in April 2006. At the June 2006 Senate hearings, the first in four years, the EPA provided documents “‘relating to timing of cleanup, funding shortfalls and related tasks…stamped ‘PRIVILEGED’ across the whole page in bright red ink,’” Senator Boxer told the CPI.

However, Lerner’s investigative report on chemicals related to Teflon is not the only reporter to find that the public is deliberately kept in the dark, if not misinformed about chemicals in their water and soil.

The *New York Times* reported in March 2016 that a routine inspection of tree moss in Portland, Oregon, revealed that scientists from the U.S. Forest Service [inspecting 346 clumps of moss were stunned to find toxic levels of cadmium](http://www.nytimes.com/2016/03/03/us/toxic-moss-in-oregon-upsets-city-known-for-environmental-ideals.html), a heavy metal that can cause cancer and liver failure, linked to two neighborhood glass blowing factories in a residential area. The researchers were simply seeking to quantify the importance of trees in an urban setting. No one had ever thought to look in tree moss for toxic heavy metals. While heavy metals and other toxins are less likely to be monitored by air quality surveys, the relative ease of finding this pollution in moss will open up a new way of doing environmental research that could lead to more surprising findings. The U.S. Forest Service is going to perform similar moss research in Cincinnati.

In February 2016, in the wake of disclosures of the state of Michigan poisoning the residents of Flint, Michigan, a predominantly African American city of 100,000, the *New York Times* reported that water quality experts identified significant “holes in the safety net of rules and procedures.” Currently, Republicans in Congress are blocking the Environmental Protection Agency from extending the Clean Water Act to streams and tributaries providing drinking water to 100 million Americans. The paper reported that many “potential potentially harmful contaminants have yet to be evaluated, much less regulated.” The EPA’s standard for lead in water, 15 parts per billion, “is not based on any health threat; rather, it reflects a calculation that water in at least nine in 10 homes susceptible to lead contamination will fall below that standard.” The new EPA standard for lead in water will not be ready until 2017.

In other words, meeting EPA standards are not necessarily reassuring.

Part of the problem is that the EPA’s water office budget has fallen 15 percent in real terms and resulted in more than 10 percent loss in personnel. Federal officials had also “slashed drinking-water grants, 17 states had cut drinking-water budgets by more than a fifth, and 27 had cut spending on full-time employees.”

There are also new pathways for contamination to reach drinking water. The Brick Township in New Jersey discovered lead in its water due to spreading salt on the roads in the winter. The salt migrated to the river, the source of the town’s drinking water, raised chloride levels in the water which then—like Flint—corroded the pipes releasing lead into the drinking water.

The *Times* also pointed to the problem of “unregulated chemicals.” The *Times* noted that the “[biggest hole in the drinking-water safety net may be the least visible: the potential for water to be tainted by substances that scientists and officials have not even studied, much less regulated](http://www.nytimes.com/2016/02/09/us/regulatory-gaps-leave-unsafe-lead-levels-in-water-nationwide.html).” The report noted that the EPA had listed “100 potentially risky chemicals and 12 microbes that are known or expected to be found in public water systems, but are not yet regulated.” There are also another 80 additional contaminants that water authorities test for, but which are not regulated. Only one contaminant, perchlorate, a salt used in rocket propellants and explosives, will be limited, but that rule is not expected until 2017. The EPA began testing for perchlorate in 2001 and decided to regulate the chemical in 2011. The former head of EPA’s Drinking Water Committee told the *Times* that there are “thousands of other chemicals, viruses and microbes” that have yet to be assessed. While most are probably harmless, the scientists cannot be certain. There is also the problem of multiple contaminants in the water. Their interactions are not well studied.

The Midwest director of the Natural Resources Defense Council told the *Times*, “‘We see safe and sufficient water as a human right…It needs to be approached as a public service matter, not a private commercial commodity.’”

It would appear that any chemical that is not regulated by the EPA is used by industry to pollute sources of drinking water.

Another March 2016 New York Times article related the story of how perfluorooctanoic (PFOA) had been discovered in a town in New York near the Vermont border. PFOA was soon found in the drinking water in a New Hampshire town. That led to the discovery of PFOA in a Vermont town. The non-profit Environmental Working Group revealed that PFOA had been “detected in 103 water systems, serving nearly seven million people in 27 states.” Vermont’s health department did not issue an advisory because the amount of PFOA detected in drinking water—20 parts per trillion—was below the EPA’s standard of 100 parts per trillion. PFOA is an unregulated contaminant. The Times reported that scientists had told the paper that “[government agencies at all levels, from local health departments to the federal Environmental Protection Agency, have yet to grapple with the full extent of the problem, or with what it will take to clean it up](http://www.nytimes.com/2016/03/15/nyregion/vermont-town-is-latest-to-face-pfoa-tainted-water-scare.html).”

But, the problem of lead in the nation’s drinking water is far more widespread than Flint, Michigan. Indeed, the scope of the problem is shocking in its scope and should deeply unsettle our moral complacency.

On March 11, 2016, an extensive investigation by the *USA Today Network* of newspapers revealed that [unsafe levels of lead had been found in almost 2,000 water systems operating throughout the United States that had been tested since 2012](http://www.usatoday.com/story/news/2016/03/11/nearly-2000-water-systems-fail-lead-tests/81220466/). These systems provide drinking water to 6 million people and at least 180 water systems failed to notify their publics in a timely fashion. In fact, some waited several months to notify their customers of high levels of lead. *USA Today* found that while the EPA can set rules and standards, it us up to the states to enforce the rules. Moreover, implementation by the states can be “inconsistent and spotty” and “systems have widely varying levels of financial resources and staff training.”

*USA Today* also reported that “Environmental Protection Agency data showed about [350 schools and day-care centers failed lead tests a total of about 470 times from 2012 through 2015](http://www.usatoday.com/story/news/nation/2016/03/17/drinking-water-lead-schools-day-cares/81220916/). That represents nearly 20% of the water systems nationally testing above the agency's ‘action level’ of 15 parts per billion.” In fact, the newspaper network reported that schools and daycare centers are subjected to a “regulatory black hole” because “public schools and half a million child-care facilities are not regulated under the Safe Drinking Water Act because they depend on water sources such as municipal utilities expected to test their own water.” The newspaper reported that the “EPA recommends that schools and day-care centers test for lead even if they’re not required to under the agency’s Lead and Copper Rule and work to reduce the toxin.”

In the wake of the Flint, Michigan scandal in which the governor, his emergency managers, and his environmental regulatory agency took deliberate actions leading to the lead poisoning of around 100,000 people, including around 9,000 children, the administrator of the Environmental Protection Agency, Gina McCarthy, wrote a *Washington Post* opinion piece explaining that under the “Safe Water Drinking Act Congress gives states primary responsibility for enforcing drinking water rules for the nation’s approximately 152,000 water systems, but the Environmental Protection Agency has oversight authority.” McCarthy noted that not only do communities of color and poor communities lack the financial and technical resources to resist corporate polluters, but “more than a third of local health departments across the United States had reduced or eliminated environment-specific services from the prior fiscal year for budgetary reasons.” McCarthy also noted that the United States needed to invest at least $384 billion in infrastructure improvements through 2030 in order to provide clean water—not counting the hundreds of billions needed to remain the country’s lead pipes.

Administrator McCarthy, then offered a palliative solution that was as meaningless as it was vacuous. McCarthy soothed readers by reporting that “I sent a letter to every governor and every state environmental and health commissioner with responsibility for enforcing drinking water rules—urging them to work with the EPA on infrastructure investments, technology, oversight and risk assessment, as well as public engagement and education—to keep our drinking water safe nationally.”

Dana Milbank, a centrist commentator at the *Washington Post*, noted that at congressional hearings on Flint the Republicans attacked the EPA’s administrator even though the EPA was powerless to intervene. Milbank wrote, “Congress has hamstrung the federal government, giving states the authority to enforce drinking-water standards and all but eliminating the EPA’s power to intervene. This is a pure expression of the conservative doctrine of federalism: States handle things better than the feds because they are closer to the people…. [No, this problem was created by a rigid adherence to the notion that states will police themselves—and that the federal government should step aside](https://www.washingtonpost.com/opinions/the-poisonous-conservative-thinking-that-caused-the-flint-crisis/2016/03/18/06700ca2-ed01-11e5-bc08-3e03a5b41910_story.html).”

**Florida’s ‘Don’t Expect Protection’ (DEP) Agency**

To understand how meaningless and vacuous that statement is one merely has to bounce its intention against the reality of Florida politics related to environmental pollution and solar energy.

In November 2014, [75 percent of Florida voters passed constitutional Amendment 1](http://legacy.wtsp.com/story/news/politics/florida/2014/11/04/amendment-1-passes/18495809/) directing that 33 percent of a real estate tax on documents would be spent on land restoration and acquisition—about one billion dollars per year, according to the Associated Press. Instead, the legislature diverted the money from conservation to paying for operational expenses. That prompted two lawsuits from environmental groups. Earthjustice filed a lawsuit on behalf of the Florida Wildlife Federation, the St. Johns Riverkeeper, the Environmental Confederation of Southwest Florida and the Sierra Club. That lawsuit contended that “the [money was improperly diverted from conservation purposes to agency staffing and operational expenses](http://jacksonville.com/news/2015-12-03/story/florida-judge-tosses-part-amendment-1-lawsuit-environmental-groups).” A second lawsuit was soon after filed by Florida Defenders of the Environment [challenging the legislature’s expenditures on constitutional grounds](http://fladefenders.org/fde-files-a-lawsuit-to-protect-voters-intent-on-amendment-1-funding/).

Thus, even when 75 percent of Florida voters favor a specific, constitutional course of action, the will of the people is treated as if it were just an off-the-cuff suggestion.

In November 2011, the Florida Center for Investigative Reporting (FCIR) and the Center for Public Integrity (CPI) jointly revealed the top seven air polluters in Florida: the Pinellas County Resource Recovery Facility, the Brevard County Central Disposal Facility in Cocoa, Eager Beaver Trailers in Lake Wales, the Miami-Dade County Resource Recovery Facility in Doral, Motiva Enterprises in Tampa, Tampa Electric Company’s Big Bend Station in Apollo Beach, and Naval Air Station Jacksonville. The joint investigation revealed “[how toothless, and at times helpless, federal, state and county regulators can be in preventing hazardous emissions from entering the air Floridians breathe](http://fcir.org/2011/11/07/florida-home-to-seven-air-polluters-on-epa-watch-list/).” Florida leads the nation in burning trash to create energy, but such incineration produces “more carbon dioxide than coal and “can lead to smog, acid rain and haze, and increases the risk of climate change.”

Politics, more importantly, the tremendous amounts of corporate money in Florida politics, plays a significant role in creating and perpetuating environmental pollution and negative health effects.

Alan Farago, president of the Friends of the Everglades, told the FCIR/CPI investigators, “‘[What we have in Florida is a state that is claiming to be too poor to protect air and water quality while making it easy for business to keep polluting the environment](http://fcir.org/2011/11/07/florida-home-to-seven-air-polluters-on-epa-watch-list/).’”

In April 2015, the Florida Center for Investigative Reporting reported that in Florida, a state with abundant solar resources, “state law has inhibited the growth of the rooftop solar industry.” Florida ranks third in the nation in terms of solar potential, behind only California and Texas, but ranks 13th in terms of producing solar energy.

Former state representative Paige Kreegel, once the chairman of the House’s Committee on Energy and a “self-described free market Republican,” was “made an outcast in Tallahassee” for backing solar energy. Since 2010, the FCIR reported that the utility companies had poured $12 million into political coffers. Governor Scott’s 2014 campaign took in more than $1.1 million from the utility companies and the utilities had made “contributions to every member [16] of the Senate and House leadership.” Of the $12 million in political contributions, Florida’s Republican Party received $6.68 million and Florida’s Democratic Party received $1.8 million. Governor Scott apparently rewarded the utility companies by appointing former state representative Jimmy Patronis to the state’s Public Service Commission which regulates energy in Florida. Patronis is the former head of the Florida chapter of the American Legislative Exchange Council—the [legislative front group](http://www.alternet.org/corporate-accountability-and-workplace/bill-moyers-exposes-stranglehold-corporate-right-wing) for the [country’s largest corporations that specializes in writing “model legislation” for state legislatures](http://www.alecexposed.org/wiki/What_is_ALEC%3F#Who_funds_ALEC.3F) that gut federal laws and regulations for [air, water, and, endangered species](http://www.alecexposed.org/w/images/c/c9/ALEC_on_the_Environment_Final_PDF.pdf) (pdf), as well as promoting the [abolition of collective bargaining rights, undermining voting rights, and opposing health care reform](http://www.pfaw.org/rww-in-focus/alec-the-voice-of-corporate-special-interests-state-legislatures). ALEC is also the financial power behind the current Sagebrush Rebellion attempting [transfer hundreds of millions of acres of Western lands to the states](https://www.hcn.org/articles/how-an-east-coast-think-tank-is-fueling-the-land-transfer-movement) for their eventual [sale to energy, mining, timber, and cattle companies](https://www.americanprogressaction.org/issues/green/report/2015/10/27/124229/the-dog-whistle-politics-of-seizing-and-selling-american-lands-and-energy-resources-in-the-west/).

The FCIR reported that Kreegel’s experience was not an isolated one: “Other state lawmakers and lobbyists say that anyone who has attempted to expand the rooftop solar industry has been ostracized and seen their proposals go nowhere. The reason, some lawmakers say, is that [Florida’s largest utility companies have invested heavily in state political campaigns to fend off competition from rooftop solar power](http://fcir.org/2015/04/03/in-sunshine-state-big-energy-blocks-solar-power/).”

The pro-solar coalition is an [unlikely](http://fcir.org/2015/04/03/in-sunshine-state-big-energy-blocks-solar-power/) [collaboration](http://www.energyandpolicy.org/florida-solar-energy-attacked) of the Christian Coalition, Tea Party groups, Conservatives for Energy Freedom, the Florida Retailer Federation, the Florida Alliance for Renewable Energy, and the Florida Solar Energy Industries Association. The ballot initiative is also backed by the Republican Liberty Caucus of Florida and the Libertarian Party of Florida. The Floridians for Solar Choice, who back one of the constitutional amendments that would break the stranglehold of the utility companies, is opposed by the utility companies and the Koch-financed Americans for Prosperity. The Koch brothers, who own Koch Industries, one of the leading producers of pollution in America, is [deeply involved in the fossil fuel industry (producer of fracking chemicals](http://www.rollingstone.com/politics/news/inside-the-koch-brothers-toxic-empire-20140924)), as well as the creation of a campaign financing structure that [rivals both major political parties](http://www.nytimes.com/2016/01/13/books/review-jane-mayers-dark-money-about-the-koch-brothers-fortune-and-influence.html) and a [complex web of dark money groups](http://www.prwatch.org/news/2014/07/12541/koch-political-spending) that [finance libertarian think tanks](http://www.nytimes.com/2016/01/13/opinion/campaign-stops/the-republican-partys-50-state-solution.html).

Tim Dickinson wrote in *Rolling Stone* that Floridians spend “$1,900 per year on power—40 percent more than the national average.” The state’s Investor-Owned Utilities “reap massive profits from natural gas and coal” and “wield outsize political power in the state capital of Tallahassee, and flex it to protect their absolute monopoly on electricity sales.” Over sixty percent of Florida’s energy comes from natural gas, 23 percent from coal, and only one percent from solar power. Dickinson noted that in Tallahassee there was one utility company lobbyist for every two legislators. The former chair of the Public Service Commission, Nancy Argenziano, told Dickinson, “‘The [legislature is owned by the utilities. To me, it’s extremely corrupt](http://www.rollingstone.com/politics/news/the-koch-brothers-dirty-war-on-solar-power-20160211). The legislature takes millions from utilities, who make billions from [the decisions of] the PSC. They get what they pay for.’”

In February 2016, unseasonable rainfall in January rose the water level in Lake Okeechobee. This rising water level was exacerbated by the decision of water managers to pump farm water contaminated by fertilizer and other chemicals from sugar farms and cattle ranches into Lake Okeechobee raising the water level even higher. Florida’s water managers, fearing the dikes would break, decided to allow 70,000 gallons per second of contaminated water into the St Lucie and Caloosahatchee rivers, thus polluting the Gulf of Mexico and the Atlantic Ocean and endangering the tourism industry, small businesses, and the oyster beds. The managing attorney for the Florida branch of Earthjustice [blamed the sugar industry for blocking purchases](http://www.motherjones.com/environment/2016/02/florida-water-pollution-lake-okeechobee) of “land south of the lake that could be used to build a waterway to direct dirty water to the Everglades, cleansing it along the way.”

Carl Hiassen, writing for the *Miami Herald*, correctly identified Republicans in the U.S. Congress for not funding the Army Corps of Engineers to rebuild the old Hoover dike. While Governor Scott blamed President Obama for the pollution, Hiassen pointed out that not “once did Scott mention the Republican leaders of Congress, who have the power but not the enthusiasm to allocate the $800 million needed to repair the Lake O dike. If they put that item in a budget, Obama would sign it in a heartbeat. The same is true for Everglades restoration.”

Instead, Hiassen wrote, “more than 72 billion gallons has been expelled toward the Treasure Coast, ruining the salinity of the St. Lucie Estuary, chasing sea life from the Indian River Lagoon and creating a foul brown plume miles into the Atlantic…. This is also happening along the Gulf coast.” The massive rivers of pollution are creating “‘extensive environmental harm’” and “‘severe economic losses.’”

And, Hiassen pointed out that Governor Scott “is busy muscling special interests to bankroll his Senate run in 2018. [Some of his biggest donors are the worst polluters of Lake O and the Everglades…. Scott’s pals in Big Sugar](http://www.miamiherald.com/opinion/opn-columns-blogs/carl-hiaasen/article64076762.html) have been back-pumping dirty water from their cane fields into the lake, which through Friday was being emptied into the St. Lucie River at a rate exceeding 2 billion gallons a day.”

Ron Littlepage of the *Florida Times Union* listed the ecological and economic damage being done from these rivers of Big Sugar contamination: estuaries around Sanibel and Captiva islands, grass beds critical to sea life ruined, tourism down, fishing guides losing business, earlier than normal algae blooms, and the St. Lucie Canal and Indian River Lagoon system.

Littlepage identified “Big Sugar” as the “main culprit,” along with Governor Scott and the Republican-dominated legislature not using Amendment 1 funds to reclaim land in the Everglades and using that for a natural water purification system.

Littlepage opined that it is “[not surprising that Scott is ignoring the role of Big Sugar since his political action committee—Let’s Get to Work—has enjoyed taking from the deep pockets of Big Sugar as he builds a bank account for a U.S. Senate run in 2018](http://jacksonville.com/opinion/ron-littlepage/2016-03-08/story/ron-littlepage-our-muddy-headed-policies-are-leading-dirty).”

And thus we can clearly discern that the old political chestnut that states are better at regulating industry and caring for the environment because they are local and closer to the issues and people is just ideological window dressing.

The truth is actually as awful as the rivers of pollution. Too much money in politics buys influence with Florida politicians. Those Florida politicians, in turn, relax regulatory enforcement, spend tax dollars contrary to the expressed demands of the public, keep an energy monopoly in place, and take even more money from industrial polluters so that they can continue running for political office.

This model is so pervasive and so destructive, even at the national level, that when the Republican presidential candidates came to Florida for a debate, that a “bipartisan group of 21 Florida mayors representing cities from Tallahassee to Miami Beach” urged the debate organizers to “ask the candidates about climate change and sea-level rise.” Why would a bipartisan group of mayors have to ask about climate change? Because in the Republican Party there is a strong correlation between taking money from the fossil fuels industry and the belief that the climate change science is not settled. In fact, politicians who follow the corporate line are likely to receive [500 times more energy industry contributions than politicians who believe the climate change science](http://truth-out.org/news/item/22291-keystone-pipelies-exposed-the-facts-on-petroleum-politicians-crude-money-and-media-spin). Simply put, the American Petroleum Institute, the energy companies, the Koch brothers, and the American Legislative Exchange Council have simply bought large chunks of the U.S. House and Senate, virtually all of it on the Republican side.

The first line of defense against environmental pollution and negative health effects are environmental organizations, civil rights organizations, neighborhood associations, labor unions, and other organizations that can be made aware of the threats. From the grassroots up, local elected officials must be told that this business-politics-corruption model must stop.

We now turn to Escambia County to see how this business-politics-corruption model has operated for decades.

**The 1999 Escambia County Grand Jury Report**

In 1999, the “[Special Grand Jury on Air and Water Quality](https://drive.google.com/file/d/0B-w1JwXVKGGHVTNRNHJwVU5ScGM/view?usp=sharing)” issued its report based on interviews with over 100 scientists and experts, business people, and residents, plus its review of “hundreds of maps, diagrams, studies, reports, and records.” The Special Grand Jury sought to answer two questions: “(1) to inquire into factors that are affecting, or that are likely to affect, the area’s air and water quality; and (2) to assess the efforts of regulators in protecting, maintaining, and improving the area’s air and water quality.”

The Special Grand Jury’s report was unblinking in its observations and criticisms. The Grand Jury noted (page 4) that they based their “findings and conclusions on a very substantial factual record” and that it would “be unfair and incorrect to disparage our findings and conclusions on hypertechnical grounds.”

Regarding surface water, the Grand Jury found that “degradation is the result primarily of discharges by industry (especially the pulp and paper mill and chemical factories), sewage treatment plants, and stormwater runoff.”

While groundwater was “abundant” and “naturally superior,” the Grand Jury again found widespread pollution. The Grand Jury reported that “it has been widely contaminated and will be further contaminated. The causes are several, but they are largely the result of poor controls or practices by industry and business that allowed spills, leaks, or discharges of toxic pollutants to contaminate the surficial aquifer and many of our drinking water wells, both public and private” (page 2).

In its executive summary (page 2), the Grand Jury wrote, “In sum, pollution has impaired surface waters, destroyed fish and wildlife habitat, and reduced the number and diversity of aquatic species; pollution has contaminated the groundwater, and many of our public and private wells, which are used for drinking, irrigation, and other needs; air pollution has imposed risks to our health, restricted outdoor activity, and added to the impairment of surface waters. These circumstances threaten the overall health, safety and welfare of the citizens of the community and the natural resources essential to a good quality of life.”

When it came to assigning at least some of the blame, the Grand Jury was unsparing in its criticism of regulatory bodies and local officials. The Grand Jury, consisting of local citizens, found that regulatory bodies and local officials were more attuned to the financial interests of industry than they were to health and wellbeing of Escambia County’s residents.

The Florida Department of Environmental Protection (pages 2-3) “who are responsible for protecting, maintaining, and improving the environment, did not do so. Even though regulators disagree about which factors are most significant, they know the causes and effects of air and water pollution by virtue of numerous studies, reports and assessments. Instead of acting to protect, maintain and improve the environment, regulators have done more studies, duplicating previous work. They have substituted studies for action, because studies are less costly, and less controversial, than acting to improve or restore the environment.”

The Northwest District of the Florida Department of Environmental Protection protected neither the environment nor the residents of the county. Instead, it protected the profitability of regulated industries.

The Grand Jury (page 3), “find that the Northwest District of the Department of Environmental Protection failed to properly implement and enforce the environmental laws, rules and regulations. The district office succumbed to political, economic, and other pressures, allowing regulated businesses, industries and individuals to pollute the area’s air and water. The district director, and others acting on his behalf, ignored and concealed environmental violations against the sound advice of staff employees. Consequently, the director thwarted the well-intended efforts of many staff employees to perform their lawful duties. In several instances, he, and or others acting on his behalf, disciplined or threatened to discipline DEP employees who tried to implement and enforce environmental laws.”

The Grand Jury (page 3) was equally scathing in its observations of local government officials who “were too often more interested in promoting and protecting the current interests of industry and business, especially the homebuilders, without any attempt to fit those particular interests into a community plan that allows for rational and sustainable development. In doing so, they do not seem interested in conserving or protecting the area’s natural resources and have even scoffed at those who do. This failure by those who were elected and appointed to represent the public interest has resulted in the formation of citizen’s groups, which try to fulfill the proper role of government.”

The Escambia County Utilities Authority (now renamed the Emerald Coast Utilities Authority) (ECUA) was identified as one of the leading polluters of water in the county. Seriously? Yes.

The Grand Jury’s report observed that the “largest WTP [Waste Treatment Plant] poses, unfortunately, the biggest problem—ECUA’s Main Street Plant in downtown Pensacola. It, like Champion’s pulp and paper mill, was put in the wrong place. Perhaps, it was less expensive to let gravity bring the sewage to the low-lying downtown area. Or, perhaps it inured to the short-term financial interests of some to locate the plant on a particular parcel of land. Whatever the reason, the Main Street WTP impedes development of the downtown waterfront area and contributes to the bay's water pollution.”

As we shall see below and in Part 3, ECUA’s blatant disregard for protecting the environment and residents of Pensacola has continued into 2016—suggesting that there is something particularly odious about the culture of ECUA board members and staff.

Among the citizens actions groups formed in response to regulatory and governance failure were (page 108, pdf 116) “Friends of the Prairie, Friends of Perdido Bay, Santa Rosa Sound Coalition, Citizens Against Toxic Exposure,…Escambia County Citizens Coalition, Citizens Planning Responsibly, and others” including the United Peninsular Homeowner’s Association.” The Grand Jury noted that the Bream Fisherman’s Association (page 79, pdf 87) had taken it upon themselves to sample water quality. The Grand Jury found that the Bay Area Resource Council (BARC), formed to hear citizen complaints and observations, which was funded by the government, was wracked with infighting and was ineffective. The Grand Jury opined that the BARC was formed “to hear, or even mollify, the citizens’ concerns.” Groups that were formed by citizens themselves were “active and functioning” and “have not been characterized by infighting.”

The Grand Jury called upon local residents, acting in concert, to form goals that regulatory bodies and local governing boards were to act to achieve.

The Grand Jury recommended (pages 3-4) that “there must be a concerted effort by citizens, supported by government, directed toward a common goal—promoting and preserving the public health, safety and welfare. It is crucial that we, as voters, work to achieve this goal through the legislative branch of government by electing officials dedicated to public service. We must elect legislators, commissioners and council members who act in the long-term interests of the area as a whole, not merely at the behest of the short-term interests of a few.”

The Grand Jury, local residents who live in the county, who work, shop, and recreate with their neighbors, called on local residents to take the lead.

The Grand Jury (page 4) observed that “we saw that government action must be based on a goal or an objective. Without an ultimate goal, government action is not regulation, but merely work to no end.”

The Grand Jury then wrote that it is up to local residents to take the lead: “Perhaps more important, if we, the people, do not set a goal together for our government, then the interests of a few, powerful individuals or groups will do so.”

Why? One major reason is that groundwater supply—the underground aquifer which supplies everyone in this county with drinking water and water for industrial uses—is extremely vulnerable to deliberate pollution for financial gain.

The Grand Jury explained (pdf page 61) that “Although groundwater supply is not of concern, groundwater quality is. As noted above, the sand and gravel aquifer lies close to the surface and is very permeable. The aquifer is, therefore, highly susceptible to contamination from improper land use. Small amounts of fuel, dry cleaning solvents, pesticides, or other substances can contaminate large amounts of groundwater for long periods of time. One gallon of gasoline, for example, will contaminate approximately one million gallons of groundwater.”

**The 2004 Escambia County Grand Jury Report**

The [2004 Grand Jury report](https://drive.google.com/file/d/0B-w1JwXVKGGHbkpmV1BxY2d5RXc/view?usp=sharing) reviewed the findings of the 1999 report and stated observations and conclusions ever more sharply and declarative. Industrial pollution for profit—essentially socialism for the rich with privatized profits—was combined with shifting all the environmental cleanup costs, as well as negative health effects, onto the public. Again, these are the findings of our next door neighbors doing their civic duty while sitting on the Grand Jury examining evidence.

The Grand Jury found (pdf page 1) that in “Escambia County, ground water contamination is widespread. There are a number of severely contaminated areas including six Superfund sites, dozens of dry cleaning sites, and hundreds of petroleum storage sites. In southern Escambia County, ground water contamination is substantial and has resulted in a well construction moratorium, well closures, and water filtration. More than one-half of the county’s public supply wells has been contaminated with dry cleaning solvents, pesticides, or petroleum products.”

The Grand Jury specified (pdf page 1) that “Industry is the principal source of ground water contamination, especially in the southern part of the county, where numerous wells have been contaminated by industrial discharges. The most contaminated industrial sites are the Superfund sites. In Florida, only Dade, Hillsborough and Broward Counties have more Superfund sites than Escambia County. Although these sites were proposed for clean up years ago, clean up has not occurred at most of them.”

Other sources of water contamination included 37 dry cleaning sites that had applied for the “state’s cleanup program.” Leaking petroleum tanks were another source pollution. At the time, the county had 424 facilities with 1,130 storage tanks. A fourth source of pollution was leachate from landfills. The Grand Jury (pdf page 2) noted that the “number and the location is unknown because regulatory authorities do not have complete information about closed or abandoned landfills.”

The Grand Jury noted that the effects of pollution were negative health effects and the stigmatization of entire areas thus preventing business development in the area. While the Grand Jury suggested that the negative health effects needed to determined and monitored, left unsaid is that many of the vulnerable lack health insurance and unless industry paid for this monitoring, it is very likely that medical monitoring would not be done.

That assertion is based upon the findings of the [Partnership for a Healthy Community’s 2012 assessment](https://drive.google.com/file/d/0B-w1JwXVKGGHblFZVzRybGs0UzQ/view?usp=sharing). The Partnership began as a joint project of the Baptist Health Care Corporation and the Sacred Heart Health System and is now a stand-alone entity. The Partnership has publicly released its 1995, 2000, 2005, and 2012 assessments.

The Partnership’s assessment of the state of health in Escambia County is dismal. It noted (pdf page 5) that the “2005 Assessment revealed that overall health status for Escambia County and key health status indicators for the two counties combined have worsened since the study performed in 2000. Unfortunately, results from the 2012 Assessment show no progress in improving health status over the 2005 Assessment.... Progress toward community health improvement with sustainable change will require a bigger and more collaborative community-wide effort, involving governmental organizations, employers, and many others, to improve results in areas of greatest need.”

The Partnership compared Escambia and Santa Rosa counties to peer counties and Florida averages, as well as to each other.

The Partnership’s analysis (pdf page 7) of 234 health indicators indicated that the “results are most problematic for Escambia County, which, among Florida’s 67 counties, ranks 18th in total population, but 24th in per capita income, and 63rd in government expenditures for health services. Overall, for Escambia County, slightly less than 34% of the 234 indicators compare favorably to peer and state rates, while 47% are unfavorable to both. Over 15% of the indicators compared unfavorably to peer, but favorable to the state. The remaining 5% were favorable to peer, but unfavorable to the state.”

Thus, it is not unreasonable to assume that the negative health effects suggested the 2004 Grand Jury’s report weigh most heavily on the most vulnerable poor neighborhoods in Escambia County who are located closest in proximity to toxic waste facilities and thus more likely to be exposed to toxic chemicals.

The 2004 Grand Jury’s summation of its findings related to the sources of pollution, the nearly criminal behaviors of corporations, the unwillingness or inability of regulatory bodies and local officials to hold corporations to account, and the shifting of massive environmental cleanup costs from the corporate ledgers to county, state, and federal taxpayers needs to be quoted in full (pdf pages 2-3) for they reveal a scheme of corporate welfare and government indifference that is outrageous:

“The cost of treating contaminated water varies depending on the contaminant, but often it costs millions of dollars to treat a single well. Experts estimate the cost to remove contaminants from the Sand-and-Gravel Aquifer in the hundreds of millions of dollars, and the cost to treat contamination of the entire water system seems incalculable. These costs could force the area to obtain an alternative and costly source of supply, like desalinated water.

At heavily contaminated sites, such as the Escambia Treating and American Creosote Works sites, the costs of contamination have been shifted to the public because the polluting companies closed their businesses and abandoned their properties. Recently, private suits were brought against the owners of the Escambia Treating and Agrico Superfund sites to recover damages for private property owners from the polluting companies.

In these suits, the property owners obtained records that show what they, and many other people, suspect; namely, Conoco, and other companies, are responsible for contamination of an entire area of Pensacola. Further, Conoco, and other companies, delayed efforts to determine the extent of contamination, apparently to minimize financial liability. In addition, records show Conoco, and other companies, avoided responsibility for restoring the soil and ground water by persuading regulators to allow them merely to cover contaminated soil and allow pollutants to flow with the ground water and discharge into Bayou Texar and Pensacola Bay.

The economic costs associated with soil and ground water contamination involve forcing neighborhoods to close, imposing a well construction moratorium, and removing hundreds of acres of city land from productive use and the tax rolls. The loss of use of the Superfund properties, in the heart of the city, for housing, business, and education likely will involve development of other county property and urban sprawl.”

Local, state, and federal regulatory bodies were complicit in this massive environmental pollution, according to the Grand Jury’s 2004 report (pdf page 3):

“We find that local, state, and federal government authorities, including the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection, and the Escambia County Utilities Authority failed, individually or collectively, to: monitor ground water sufficiently; notify customers and the general public of water quality violations at multiple wells in southern Escambia County; restore ground water resources at Superfund sites; and prevent future ground water contamination.”

The Environmental Protection Agency, as we have seen in Part 1, has engaged in funding and reviewing endless studies that result in regulatory inaction and corporate profit-making. The 2004 Grand Jury found (pdf page 4):

“The Environmental Protection Agency and the [Florida] Department of Environmental Protection have not been sufficiently concerned with the health, safety, and welfare responsibilities they bear, or the consequences of their decisions. EPA has failed, after fifteen years, to delineate the extent of the contamination at the Escambia Treating Superfund site. Instead, EPA continues to ‘study’ the extent of ground water contamination as a prerequisite to any clean up. Until recently, the health effects of the contamination have been largely ignored by federal and state authorities.”

The 2004 Grand Jury report was particularly critical of the Escambia County Utilities Authority (ECUA, now Emerald Coast Utilities Authority) for staff and board for essentially dereliction of duty and violating the public’s trust. As we shall see below, this continues into 2016.

The Grand Jury noted (pdf page 3) that, overall, the “The Escambia County Utilities Authority staff, in particular, did not understand the water quality issues it faced, and other regulatory authorities charged with providing scientific and technical assistance to ECUA failed to do so. The ECUA staff compounded the problem by delaying informing the ECUA Board about water quality violations and by mis-characterizing violations when disclosure was made. We specifically find that ECUA's former Executive Director was not sufficiently focused on the health, safety, and welfare consequences of his actions, but was overly concerned about the public relations and financial aspects of his decisions.”

The Grand Jury reported that ECUA’s staff “knew that the drinking water in the ECUA system was contaminated with radium and other harmful substances, but the staff did not disclose this to their customers, the ECUA Board, or the public, as required.”

The ECUA’s Executive Director and its Science, Technical and Regulatory Administrator had “made policy decisions on health and safety issues without oversight from a majority of the members of the ECUA Board. A majority of the ECUA Board's members subsequently tacitly approved these decisions, relinquishing their responsibilities to their customers and the public.”

The 2004 Grand Jury reported (pdf page 43) it was the actions of citizens groups like Citizens Against Toxic Exposure, local people directly poisoned by the Escambia Treating Company Superfund site located on Palafox Street, who forced the issue with their lawsuit. Eventually, 350 households were relocated and 170 properties purchased—at the time the “third largest [relocation] in Superfund history” after Love Canal and one other.

The 2004 Grand Jury report noted (pdf page 44) that CATE had reported “fifty-four contaminants of concern and eighty-three other substances at the Escambia Treating Superfund site whose effects are not known, and thirty contaminants of concern and twenty-five other substances at the Agrico Superfund site whose effects are not known.”

The 2004 Grand Jury report (pdf page 44) stated that after CATE informed the ECUA of ground water contamination, the ECUA did nothing.

According to the report, “CATE…reported the ground water contamination to ECUA, but ECUA did not respond. Testing of additional samples, with the assistance of the [CATE] technical advisor, revealed unsafe levels of arsenic, pentachlorophenal, dieldrin, and dioxin. According to the CATE technical advisor, ground water contamination continues on site and off site, as shown by the presence of the site-specific chemicals, PAH, dioxin, and creosote.”

The 2004 Grand Jury report continued (pdf page 44), “Contractors, however, continue to demolish houses in the former neighborhoods located near the sites and to remove the debris to unlined landfills in Escambia County.”

The 2004 Grand Jury report does not mention where the demolished houses went, but it appears that local officials allowed one environmental problem to move to another location to be dealt with years or decades later.

Joel Hirschhorn, the technical adviser to Citizens Against Toxic Exposure, noted that “[CATE has been an extremely effective grassroots organization](http://www.trwnews.net/Documents/Cleanup/two_superfund_environmental_just.htm), able to deal forcefully with the government, able to obtain congressional support, news media attention, and the assistance of national organizations.” However, while CATE achieved a significant relocation victory in the annals of environmental justice, Hirschhorn noted that the EPA institutionalized its Pensacola relocation decision in a way that would not establish a precedent for other communities of color similarly threatened by a Superfund site.

Moreover, the 2004 Grand Jury reported noted that while CATE did achieve a legal settlement that included medical testing, the numerous tort settlements “will not compensate the public for the damage to the water supply, which is, by law, a natural resource that belongs to all Floridians.”

**Conclusion**

Like the 1999 Grand Jury, the 2004 Grand Jury again called for community-wide citizen action:

“It should not be the responsibility of individuals and citizens groups to enforce laws enacted to protect and maintain water resources. Individuals and citizens groups have been unable to obtain information timely to overcome bad decisions by regulatory authorities. If water resources are to be protected and maintained, regulatory authorities must assume this responsibility, and in doing so, act in the public interest.

The obvious implication was that if local regulatory bodies and locally elected officials did not perform their duty, the electorate and active citizens would have to take action.

We probably need another special Grand Jury to review what has happened in the past twelve years.

In Part 3 we turn to contemporary environmental issues that need to be addressed in light of the two Grand Jury reports.

The six Superfund sites are still not cleaned up.

Local regulatory bodies still claim there is nothing wrong with Perdido Bay.

There is considerable pollution and concomitant health risks and destruction of property values from the Rolling Hills dump that has essentially destroyed a predominantly Black middle class neighborhood in Wedgewood area.

Gulf Power’s Crist coal burning plant maintains six unlined coal ash storage pits adjacent to the Escambia River that are unregulated by the state of Florida and monitored solely by Gulf Power. Three of the unlined coal ash pits are at least 57 years old. Coal ash is highly toxic and under pressure from lawsuits has removed such coal ash pits from locations near rivers.

The ECUA still ignores the public when siting sewage tanks holding six million gallons of raw sewage in the North Hill and Long Hollow areas. The ECUA staff and board act as if informing residents that their neighborhoods and businesses are about to be assaulted by the smell of raw sewage and that their legitimate concerns that the raw sewage storage tanks could be destroyed by any number of very powerful hurricanes that are growing stronger under conditions of a changing global climate, could potentially contaminate the underground aquifer, seriously damage their health and lives, destroy the value of their precious homes and businesses, and smear the reputation of Pensacola is an inconsequential trifle that need not be addressed. How reassuring given the past history of the ECUA.

In fact, while the 1999 Grand Jury report found (pdf page 113) that “there is little stormwater regulation—local, state or federal—despite the fact that stormwater is one of the largest and most serious sources of water pollution,” the City and County elected officials have yet to solve this issue—except by having more studies completed by engineering firms.

Contrary to the Conservation District zoning ordinance, numerous other City ordinances regarding variances and legal procedures for developments, and the City’s own Comprehensive Plan, the mayor of Pensacola and his appointed officials have allowed a newly constructed radio tower belonging to Divine Word Radio—illegally located on a city-owned property zoned Conservation District—to prevent the expansion of the Long Hollow Stormwater Pond. In the entire controversy raised by the North Hill Preservation Association, the Emerald Coast Utilities Authority has not said or written one word. Stormwater problem in the downtown Pensacola area? What stormwater problem? What radio tower?