**Part 3: The State of the Environment in Escambia County, Take One**

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**Introduction**

It is very difficult to ascertain the state of the air, water, and soil environment in Escambia County at the current time because the data is incomplete. In August 2009, on five consecutive Sundays (2, 9, 16, 23, and 30) the *Pensacola News Journal* published a five-part series on the environment by Carl Wernicke, then the paper’s opinion editor. The Society of Environmental Journalists (SEJ) noted that Wernicke had been given two months to conduct extensive research and to interview scientists and sources he had cultivated over three decades of reporting in the City. The SEJ noted that “[Wernicke concluded that 10 years later officials still can’t give a consistent answer](http://www.sej.org/publications/journalismmedia/letting-cards-talk).”

For example, in his fifth article, “A Call to Action,” Wernicke noted the University of West Florida research team’s project director Dr. K. Ranga Rao told him that while the UWF study would “give us a comprehensive look at pollutants found in fish and in sediments in Escambia Bay, Bayou Chico, Bayou Texar and Bayou Grande,” the study ran out of money before it could examine Pensacola Bay and Perdido Bay.

In the SEJ article, Wernicke noted that the data collection and analysis “effort is not well coordinated and investing the considerable funds necessary to find the answer is still an obstacle.”

Wernicke indicated that after the five-part series was published, commentary was sparse, except for a “retired Florida Supreme Court justice [who] soon recommended the formation of a new environmental task force to further study the issues as part of an effort to consolidate city and county government.” To my knowledge, there has been no further efforts to convene such an environmental task force and no further efforts to reconvene a special grand jury to examine the state of air and water quality in Escambia County—even though the twentieth anniversary of the groundbreaking 1999 Grand Jury report is only three years away.

While the five-part Wernicke series is behind the paywall of the *Pensacola News Journal* archives (and thus cannot be linked to), there are relevant observations that need to be brought out. Wernicke’s series covered air quality; water quality; the problems posed by prescription and non-prescription drugs, over-the-counter personal care products, fire retardant chemicals, and nanomaterials in cosmetics; the fractured political and regulatory environment that impedes robust data collection and managing raging storm water that crosses political boundaries; and, a call for action by regulatory agencies, elected officials, and a concerned citizenry.

Part 3 shows that environmental destruction in Escambia County is the predicted outcome of when profits and short-term considerations of employment, is combined with political corruption and regulatory capture. Environmental destruction is a systemic outcome when the people running the system disregard science, disregard their constitutional oaths, and believe that corporations will do the right thing in the absence of strong laws and strong regulatory monitoring.

What the residents of Escambia County do not realize is that every day they are literally betting the health and lives of their babies and children that corporations, elected officials, and regulatory agencies are dedicated to protecting them.

These next two articles are intended to attack and undermine that belief. The findings of the 1999 and 2004 Special Grand Jury reports have long been buried and forgotten because they reveal very uncomfortable truths. It is time to reconsider what your fellow citizens discovered when they looked behind the curtain of corporate press releases and corporate-funded “science” studies.

The only way to protect your lives, those of your babies and children, and your property is to change the politics of Escambia County. The status quo is already a disaster. The question is whether we are prepared to do something about it.

**The August 2009 Environmental Series**

In his first August 2009 article, “Hold Your Breath,” Wernicke noted that in 1999 the two leading sources ozone in Escambia County was Gulf Power’s Crist coal-burning power plant and vehicular exhaust. He also noted that the county received an F grade from the American Lung Association. But, Wernicke reported that Gulf Power “has invested hundreds of millions of dollars in pollution control equipment at its Crist plant in Cantonment” and that pollution “from other industries also has been reduced by 65 percent in the past 10 years, from 14.5 million pounds of pollutants to 5.1 million, according to the Environmental Protection Agency.”

Currently, the [American Lung Association](http://www.stateoftheair.org/2015/states/florida/escambia.html) gives Escambia County a “B” for ozone, an “A” for particle pollution 24-hour, and a “Pass” for “Particle Pollution Annual.”

Here it is necessary to point out that obvious to conservative readers. This improvement did not happen because of market forces or because corporate leaders thought it was a great idea to become “good neighbors.” This reduction in air pollution came from strengthening the Clean Air Act and other regulatory actions to reduce air pollution, as well as local environmental pressure on Gulf Power. If the air is cleaner to breath, thank “big government,” the national environmental movement, and the local environmental movement. When it comes to environmental protection, the free market treats the environment as a free toilet into which it dumps its waste products, and, consequently into and on us and all other living creatures.

Wernicke reported that in terms of industrial emissions, the Environmental Protection Agency’s Toxic Release Inventory ranked Escambia County 11th in the country for emissions out of 3,350 counties. Without pollution injected underground by the Ascend Performance Materials Operation, Escambia County was ranked 127th in the nation, or in the top five percent of the worst counties. Wernicke opined, “That’s not a good thing.” However, he noted that between 1999 and 2009, pollution from industries other than Gulf Power had been reduced by 65 percent, from 14.5 million pounds to 5.1 million pounds. The latest ([2013) EPA data from the Toxic Release Inventory](https://iaspub.epa.gov/triexplorer/tri_factsheet.factsheet?&pstate=FL&pcounty=ESCAMBIA&pyear=2013) shows that Escambia County’s release of pollutants into the air, both on-site and off-site, is now a little more than 1.8 million pounds.

Wernicke also noted one source of pollution that Escambia County cannot control: imported air pollution from Alabama and Mississippi from coal-burning power plants. Wernicke suggested that reducing this imported pollution would require “tougher federal rules, or action by regulators in nearby states.”

Wernicke recommended five actions that could reduce pollution from vehicles: mass transit, vehicle inspections, alternative transit (more bike paths), smart zoning, and infilling development in areas already partially developed rather than expanding outward and increasing vehicular traffic.

What Wernicke did not recommend, but which the NAACP did (see Part 1), is that all coal-burning power plants should close, including Gulf Power’s Crist plant.

While air quality is demonstrably better than it was in 1999, when it comes to water quality, Wernicke, writing in 2009, concluded, “it depends.” This very unsatisfactory answer is based upon Wernicke’s discussions with scientists who told him that it depends upon the specific part of the body of water sampled, the pollutant, if it has rained, time of day the sample was taken, the depth the samples were taken from, and whether it is windy or calm.

You do not have to be a scientist to figure out that the short answer is: the water is not safe. If the health of a young child or an old person swimming in a body of water depends upon the sensitivity of a high number of variables no human can calculate off the top of their head, and, the moon and stars and wind aligning just right, then the water is not safe.

Wernicke noted that “Officials can’t give a consistent answer on water quality today, last month or last year.” The reason for bad data is that the collection and analysis is “loosely coordinated” between federal, state, local, and private individuals. Data collection and analysis is expensive, and “money and staff are short.” In his fourth article, “Political Waters,” Wernicke noted that the Bay Area Resources Council has been ineffective in coordinating data collection and analysis because attendance by elected officials comprising the body “can be inconsistent at best” and “officials can come together on plans at the BARC table—but then seem to forget about what they agreed to when they return to their respective council or commission table.” And, Wernicke noted, because in years past when politicians from northwest Florida did not want to be bothered by environmental regulations, the Northwest Florida Management District has less money—one-twentieth the money—of the other four water management districts. Thus, if the Northwest Florida Water Management District wants to implement the Environmental Resource Permitting (ERP), it must seek funding from the state legislature—always an iffy proposition. The ERP [regulates surface water flows, including stormwater runoff](http://www.dep.state.fl.us/water/wetlands/erp/).

Moreover, it appears that Florida’s Department of Environmental Protection (DEP), probably more in tuned with industry profits than public health, has dropped the ball. Wernicke noted in 2009 that the “shaky effort is a big reason why the federal Environmental Protection Agency has pressured the state Department of Environmental Protection to do better on Clean Water Act requirements—requirements more than 30 years old—to classify the health of area waterways and determine how much pollution they can absorb and still be clean enough for swimming and fishing.”

In 1999, the [Grand Jury reported](https://drive.google.com/file/d/0B-w1JwXVKGGHVTNRNHJwVU5ScGM/view?usp=sharing) (pages 18-19 pdf) that Florida’s DEP had basically resorted to scientific chicanery to make the state’s watersheds appear less polluted than they were. Only 2,000 of the state’s 4,534 watersheds were sampled in 1998. Of the 2,000 samples, only 800 of the watersheds “could be fully assessed.” The Grand Jury further noted that the “DEP then concludes without a factual assessment that all watersheds which could not be evaluated using the new method are not impaired.” The DEP then proposed to de-list nine bodies of water that receive chemical pollutants from industry.

The Grand Jury observed, “Using the new methods, DEP gives the illusion that area water quality is improving, contrary even to the findings of DEP biologists....We conclude, therefore, that the state’s Water Quality Assessment can not fully answer the question: What is the area’s water quality? It is missing crucial data, ignores important information, and wholly fails to weigh other material factors that should be considered in determining water quality.”

Another example of Florida’s DEP not doing its job is its permit with Gulf Power. Wernicke noted that Gulf Power’s Crist plant would receive about 17 million gallons per day from ECUA and use that to cool its plant. Most of that water would be evaporated during cooling and about 250,000 gallons would be injected deep into the saline aquifer that is currently used by Ascend Performance Materials, the former Solutia. But Florida DEP’s permit for Gulf Power allows it to “discharge millions of gallons a year into the Escambia River during scheduled maintenance. The permit grants Gulf Power 106 maintenance days for its several different boiler units.”

But wait, it gets worse. Wernicke pointed out that Florida’s Department of Environmental Protection had allowed Champion International and then International Paper to operate for “decades” with a temporary permit, while the company studied the problem of how its chemical discharges was destroying Perdido Bay, while Friends of Perdido Bay challenged every permit and every study in the courts. In Wernicke’s third article, “A Main Offender,” Wernicke opined regarding the International Paper’s pollution: “The ultimate reality: The state would be reluctant to shut down a major employer. And IP is reluctant to spend more money than it will have to under the current plan.” Jackie Lane, head of the Friends of Perdido Bay, remarked in their October 2009 newsletter (page 2), “[I believe this pretty much hits the nail on the head](https://drive.google.com/file/d/0B-w1JwXVKGGHWkEwUUFWU2FTTmM/view?usp=sharing).”

Nearly forty years later (2016) and we are still waiting for Florida’s Department of Environmental Protection to do its basic job.

The [1999 Grand Jury report](https://drive.google.com/file/d/0B-w1JwXVKGGHVTNRNHJwVU5ScGM/view?usp=sharing) (page 54-55 pdf) noted that “many authorities believe that stormwater runoff is the most significant source of water pollution, and they expect it will erase the success in reducing point source pollution, unless it is controlled.” Heavy rainfalls and inadequate facilities to store and treat stormwater runoff means that many different types of pollutants are swept up and along by the water and redeposited “onto lands and into streams, rivers, and bays.” Stormwater runoff, according to the Grand Jury, is “largely untreated and often contains more contaminants than other sources of water pollution.”

Ten years later, Wernicke noted that stormwater runoff “is our No. 1 water pollution threat.” Wernicke also reported that “the way we deal with it is the least effective way possible: at the end of the pipe. We collect stormwater that can be as bad as raw sewage, let it run downhill, then try to clean it up.” The worst neighborhoods, according to Wernicke, “are in older neighborhoods such as East Hill, which borders Bayou Texar.” The problem is compounded by the fact that in 2009 Escambia County was only monitoring water quality at 160 “major stormwater outlets,” while there are an estimated 1,500 outlets.

One solution Wernicke suggested was Low Impactment Development, which captures stormwater at its source. This would include the use of “green roofs” to capture rainfail, cisterns to catch rainfall for crop irrigation, and requiring landscaping swales (rock-lined ditches) and pervious parking lots that allow water to soak into the ground. Wernicke also suggested “using bigger stormwater ponds to hold and treat runoff.”

To give you some idea of how swiftly planners and elected leaders in Escambia County react to new ideas, six years later, Mary Gutierrez, executive director of the local Earth Ethics environmental group wrote an op-ed (February 1, 2015) for the *Pensacola News Journal* (behind paywall) calling for greater use of Low Impact Design/Development, including an “initial focus…on retrofitting and upgrades for existing, grandfathered structures.”

Gutierrez noted that current storm water models assume that the “rainfall probability distribution is static.” In other words, the probability of rainfall in the short-term or medium-term future will be the same as the probability in the past. Gutierrez pointed out that this assumption is challenged by “recent climate trends across much of the country [that] indicate large events are occurring with greater frequency, casting doubt on the notion of a rainfall distribution that is static in time and that storm water infrastructure designed by our current design storm approach can be expected to provide the intended level of service throughout its lifetime.” Moreover, a future ten-year storm could deliver significantly more rain than a ten-year storm of the past. In short, our current infrastructure for handling storm water inadequate as it is, is going to become even more inadequate as larger and more frequent storms batter the county.

We should be extremely worried about our unpreparedness for handling stormwater because our climate is projected to become much worse due to increasing temperatures caused by human activities. The National Climate Assessment projects that Northwest Florida will go from around [10 days having temperatures above 95 degrees (F) to at least 60 days above 95 degrees](http://nca2014.globalchange.gov/report/regions/southeast#statement-16978) (F). Climate change is also partially responsible for an increase in the number of Category 4 and 5 hurricanes in the Atlantic Basin. The National Climate Assessment also projects that Escambia County, as part of the southeastern United States, could be subjected to increasing rainfall intensities, somewhere between 20 and 30 percent. This means that on the wettest day, the amount of rain could be 20 to 30 percent more than previously. The number of consecutive dry days could decrease between 10 and 20 percent. In other words, Escambia County must be prepared to handle much more stormwater than it has in the past. A history characterized as one failure after another. And, it must prepare for rising sea levels.

And, climate change, according to a [June 2014 White House paper](https://drive.google.com/file/d/0B-w1JwXVKGGHRTNoajFtX2pMZzg/view?usp=sharing), will negatively affect our health by increasing ground-level ozone, increasing asthma and other respiratory illnesses, increasing risk of infectious diseases, including from ticks and mosquitos. Climate change will also exacerbate environmental justice issues as more vulnerable populations are more severely affected. The White House noted (pdf page 5), “Pre-existing health conditions make older adults susceptible to the cardiac and respiratory impacts of air pollution. Higher rates of diabetes, obesity, or asthma in some communities may place them at greater risk of climate-related health impacts. Children, who breathe more air relative to their size than adults, are also at higher risk of worsened asthma and respiratory symptoms from air pollution.”

Climate change is also challenging the U.S. Department of Defense to reconsider our national strategy and prepare for much more military and humanitarian operations driven by how climate change effects economic and political relationships. InWeekly reported a conversation with retired Brigadier General John Adams who will address climate change at a forum hosted by 350 Pensacola. General Adams told InWeekly, “‘[The U.S. military is planning for our operations in a global environment where the climate is changing, sea levels are rising and weather is getting more severe](http://inweekly.net/wordpress/?p=26040),’ he said. ‘The melting of the polar ice caps has caused the creation of new sea lanes that weren’t there before.’”

Another threat Wernicke reported was chemicals in fish, including mercury and PCBs. In the Bayou Texar, the major threat to health is fecal bacteria in the water—largely from people in Carpenter’s Creek and Bayou Texar using fertilizer on their lawns.

In August 2008 (paywall), the *Pensacola News Journal* published an article, “Testing the Waters,” based on a larger study conducted by the Natural Resources Defense Council. The article noted that “Bayou Chico, Bayou Grande at Navy Point and Bayou Texar at Bayview Park routinely show elevated bacteria levels from animal and human feces. The sources include boats, stormwater runoff, sewer-line breaks, failed septic systems and sewage treatment plant overflows.” The NRDC study found that in 2007, Bayou Grande was under an advisory for 154 days; Bayou Texar went from 79 days of advisory in 2006 to 94 days in 2007; Sanders Beach rose from 3 to 17 advisory days; while Bayou Chico had 97 advisory days, an improvement from 177 days the year before.

Another major source of pollution is the pollution coming from International Paper (formerly the Champion International Corp. which operated the paper mill before IP bought in 2000) which has been operating on a temporary permit from the Florida Department of Environmental Protect for the past 30 years. More will be said about when we look at Perdido Bay and the Friends of Perdido Bay.

**The Bream Fishermen Association**

The Bream Fishermen Association (BFA) is the oldest, local citizens activist group in Escambia County and arguably in northwest Florida. Its founding pre-dates the establishment of the federal Department by Environmental Protection by almost a year (January 1970 versus December 1970), though it began back in the 1960s when local fisherman became “concerned about the deterioration of regional water quality conditions,” [according to its official history](http://breamfishermen.org/our-history/). The old timers who grew up in the Great Depression and fought in World War II remembered the area’s waters “teeming with life; these were sandy-bottom systems with clear waters and sea grass meadows that extended in a patchwork across the entire water body. Gone are the days that Bayous Texar and Grande were crystal clear, and schools of fish, shrimp, and crabs could be seen among the grasses.”

The BFA was the driving force behind the establishment of Florida’s Department of Environmental Protection’s Northwest District Office in the 1970s. That was when fish kills could be “measured in acres and miles.” The [December 2011 BFA newsletter](https://drive.google.com/file/d/0B-w1JwXVKGGHT2NOY25ZYmMwdzA/view?usp=sharing) was proud of the fact that “not only was the NW District established, it also housed a state-of-the-art chemistry laboratory outfitted with Department of Health chemists and FDER field biologists and environmental chemists” (page 4 pdf).

The BFA is rightly proud that in the 1970s and 1980s that it collected water samples from 93 monitoring stations and revisited those stations every three months. Those samples met the state’s stringent “Quality Control/Quality Assurance (QC/QA) criteria,” and those samples were tested for 18 parameters.

According to the [December 2011 newsletter](https://drive.google.com/file/d/0B-w1JwXVKGGHT2NOY25ZYmMwdzA/view?usp=sharing) expanding upon the website’s official history page, the BFA now collects from 48 quarterly monitoring stations and is paid a paltry, insignificant $1,200 per year by the Florida DEP (page 6 pdf). In fact, the newsletter noted that each “BFA-obtained sample is measured for 6 parameters; other parameters have a short holding time or are deemed too expensive, and FDEP has not offered to cover the associated costs of paying another facility to analyze these parameters. Results are entered into a computer program, difficult for individuals to access, and rarely reviewed.”

The BFA noted that in January 2009 “the FDEP quietly closed their Pensacola water chemistry department. Currently, the NW District does not have an environmental chemist on staff. The FL Dept of Health had their budget cut in half, and has had to drop many stations within their monitoring program; today their only stations monitored are amenity beaches (popular tourist locations with parking lots and rest rooms); they no longer sample swimming holes, canoeing creeks, or local hang-out spots.”

The data collection by “Citizen Scientists” that meet the state’s stringent criteria is very important. The BFA’s January 2016 newsletter (the most current) explained that “Data collected by Citizen Scientists at the grass roots level, once verified by Quality Assurance/Quality Control protocols are used by agencies to make decisions at the 25,000 and 50,000 foot level. This information is key and vital to understanding the different regions, and for agencies to make informed decisions. Without the extensive data base for the NW FL regional rivers, streams, creeks of nutrient loads and water chemistry supplied by the BFA over the past 50 years, the USEPA & FL DEP may not have had the robust data set needed to create the Numeric Nutrient Criteria that now govern our discharge effluent in surface waters within the region.”

Why would the Florida Department of Environmental Protection cut back its Northwest Florida District chemical laboratory and the Republican governor and legislature cut the Department of Health’s budget you might wonder? The reason is simple and logical.

If you do not look for pollution, you will not find polluters. If you do not find polluters, then all politicians and regulators can falsely assure the public that they are looking out for your health, welfare, property and business values, and the future for your children and grandchildren. You will not raise a fuss. If you do not find polluters, you do not have to impose hefty fines and clean-up costs on your donors and political masters.

You think that is hyperbole? You think I am exaggerating? As Werner Wolfe would say, “Let’s go to the videotape” and look at how the largest polluters in Florida, and the largest campaign contributors in the country, teamed up with the Emerald Coast Utilities Authority and other regulators to oppose the federal Environmental Protection Agency’s aim to have Florida put nutrient values on its streams and tributaries not covered by the Clean Water Act.

And let’s put that into perspective. In August 2011, the corporate funders of the American Legislative Exchange Council—who use corporate-friendly model legislation at the state level—were in [full blown attack mode on environmental protection across the board—including the Clean Water Act](http://www.smirkingchimp.com/node/37680). Tea Party House Republicans in Congress “would have [stopped the EPA from applying Clean Water Act protections to many waterways threatened with pollution](http://www.huffingtonpost.com/frances-beinecke/tea-party-leaders-in-hous_b_875942.html), blocked the implementation of the Supreme Court decision that concluded carbon dioxide is a pollutant under the Clean Air Act, and stopped efforts to restore iconic American ecosystems including the Chesapeake Bay and the San Francisco Bay-Delta.” The assault continued in 2015. The *New York Times* reported that “the administration approved a long-overdue rule greatly increasing the number of streams and wetlands protected by the Clean Water Act. [The rule will ensure cleaner drinking water and do little to impede responsible development. Even so, the House has already passed a stand-alone bill to cripple it](http://www.nytimes.com/2015/06/08/opinion/gop-assault-on-environmental-laws.html).”

**Political Corruption and Environmental Destruction: Partners in Crime**

While the legal issues and the scientific issues are complex, in my simply layman’s understanding the disagreement between the EPA and Florida’s DEP was one of specificity. The EPA wanted specific nutrient level values to determine whether or not a river, stream, creek, or tributary was being polluted and thus endangered. The FL DEP wanted a vague “narrative” standard, sort of on the level of “we will know pollution when we see it.” The problem with the vague Florida standard is that by the time you see the destruction, it may be too late.

On February 18, 2013, one day before the EPA’s comment period ended, [fifty-eight business and regulatory agencies in Florida filed a comment hostile to the EPA’s proposed rule](https://drive.google.com/file/d/0B-w1JwXVKGGHUUVtdEtncS1udnM/view?usp=sharing). Essentially, these large Florida polluters and campaign contributors argued that the EPA rule was unnecessary, an example of an over-reaching federal government, would hurt their profits, and Florida could protect the threatened waters just fine, thank you.

They wrote (page 1 pdf): “…there is no environmental policy objective served by overlaying additional federal criteria. To the contrary, a patchwork system of state and federal nutrient criteria would likely frustrate nutrient standard implementation and actually work against achieving our shared goal of preventing and remedying nutrient impairment in Florida surface waters. Consequently, Florida communities and employers are concerned that the latest proposed federal rules may misallocate resources and impose burdensome costs while not improving environmental protection.”

The Emerald Coast Utilities Authority signed this letter. Who else signed the letter? Let’s list some of the major polluters and political contributors: the American Forest and Paper Association, Association of Florida Community Developers, Associated Industries of Florida, the Fertilizer Group, the Florida Cattlemen’s Association, the Florida Farm Bureau, the Florida Forestry Association, the Florida Sugar Cane League, Gulf Citrus Growers Association, Gulf Power Company, the Illinois Fertilizer and Chemical Association, the National Cattlemen’s Beef Association, National Pork Producers Council, National Turkey Federation, PotashCorp, Sugarcane Growers Cooperative of Florida, United Egg Producers, U.S Cattlemen’s Association, U.S. Poultry & Egg Association, Virginia Poultry Association, and the Wyoming Ag Business Association.

Let’s just look at fertilizer and Big Sugar in Florida and why they might have a financial stake in keeping nutrient standards vague.

Robert Knight, director of the Howard T. Odum Florida Springs Institute and an environmental scientist with 40 years of professional experience in Florida, wrote in the *Gainesville Sun*, that despite Florida’s government under public pressure increasing its spending on springs protection from $69 million in 2014 to $45 million in 2015, which was then “multiplied to over $100 million in cost-sharing springs projects,” and Governor Scott committing to a 20-year spending of $50 million per year, that “springs continue to lose flow and are choking on more algae.” Knight wondered if “the public expenditures are being poorly spent and not accomplishing their stated goals, [or the status quo of issuing new groundwater pumping permits that in turn facilitate the use of more nitrogen fertilizer, are increasing the springs’ problems faster than the public’s money can be spent](http://www.gainesville.com/article/20160325/OPINION03/160329821).” Knight suggested there is “minimal public cost for legally mandating across-the-board reductions in groundwater consumption and reduced fertilizer uses. In fact, collecting aquifer protection fees based on groundwater and fertilizer use would provide a flexible funding tool for controlling excessive springs impairments without the need to pick financial winners and losers…. Enforcing and strengthening existing laws that protect groundwater quantity and quality has the potential to save our springs at minimal cost to the public.”

Is it any wonder why the fertilizer producers and associations inside and outside of Florida would want weaker standards for nutrients going into our waters?

Big Sugar and Big Cattle? *Mother Jones* magazine reported that in January 2016, with water levels in Lake Okeechobee already higher from rainfall and already containing “fertilizers and other chemicals,” that water managers pumped “dirty water from flooded farms into the lake.” The water managers then opened the floodgates allowing this sewer to flow east and west down the St. Lucie River and the Caloosahatchee River where the 70,000 gallons per second flow proceeded to threaten seagrasses, oyster beds, and damage tourist and water-based businesses. Earthjustice argued that “[Florida’s powerful sugar industry has stood in the way of the state purchasing 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](http://www.motherjones.com/environment/2016/02/florida-water-pollution-lake-okeechobee).”

The *Miami Herald* explained that “the governor 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 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](http://www.miamiherald.com/opinion/opn-columns-blogs/carl-hiaasen/article64076762.html)…. So far this year, 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.”

The *Florida Times Union* identified the “main culprit for the pollution in Lake Ockeechobee is Big Sugar.” The paper then observed, “It’s [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](http://jacksonville.com/opinion/ron-littlepage/2016-03-08/story/ron-littlepage-our-muddy-headed-policies-are-leading-dirty) as he builds a bank account for a U.S. Senate run in 2018.”

Alan Farago, a sharp-eyed critic of Big Sugar, noted that Big Sugar is the epitome of corporate welfare and greed—the public interest in clean water be damned. Farago reported that “sugar industry’s political influence is locked down by corporate welfare at its most toxic efflorescence. The [sugar subsidy in the Farm Bill mainly accrues to the net worth of two billionaire families](http://www.huffingtonpost.com/alan-farago/oligarchs-in-florida-how_b_9484616.html): the Fanjuls—of the Flo-Sun and Florida Crystals’ empire—and the descents of Charles Stuart Mott who control US Sugar Corporation. By artificially elevating the price of American sugar above free market prices, hundreds of millions per year in excess profits is guaranteed before a blade of new crop is planted.” The two Big Sugar billionaire families turned Lake Okeechobee into a “virtual toilet bowl” and towns, businesses, and populations on the coast “into downstream sacrifice zones.”

In a separate article, Farago noted that in 2014 Senator Marco Rubio made sure that the Central Everglades Planning Project (CEPP) was ineffective, thus ensuring Big Sugar’s unencumbered environmental destruction. Wrote Farago, “But in 2014, Big Sugar thwarted plans by Floridians and by Congress to get CEPP, as it is called, into the long-term budget for the US Army Corps of Engineers…. CEPP had already been neutered by Big Sugar so that the lands that would be added to water cleansing marshes was insignificant compared to the need…. [In 2010, his [Rubio’s] Senate victory had been mortgaged to a massive influx of campaign cash from the Fanjul/Flo-Sun/Florida Crystal’s fortune. Their goal: to stop the acquisition of 187,000 acres of lands offered to the state by its competitor, US Sugar Corporation. Unsurprisingly, the Fanjuls are now Rubio’s most numerous family campaign contributors](http://www.huffingtonpost.com/alan-farago/marco-rubio-alienates-flo_b_9397926.html).”

In another article, Farago observed that the billionaires spread their largesse to both political parties: “[Big Sugar’s pollution of national politics runs deep and strong through both political parties. One Fanjul brother, Pepe, takes the Republicans. The other, Alfie, takes the Democrats. It’s all about making billions and the maximum profit possible by spreading campaign cash like fertilizer across America’s political landscape](http://www.huffingtonpost.com/alan-farago/for-democrats-big-sugar-t_b_9416876.html).”

It is not just Senator Marco Rubio. Former Secretary of State Hillary Clinton and former President Bill Clinton are close friends with the Fanjuls. Al Jazeera noted that the Fanjuls, “among the biggest cane growers” in the United States, co-own American Sugar Refining, the world’s largest sugar refining company, and market their sugar through Florida Crystals and other brand names. A senior fellow at the libertarian Cato Institute told Al Jazeera, that sugar is “‘more dependent on government support or protection than any other agricultural industry in this country.’” To keep those subsidies, supports, and tax breaks coming, the Clintons have accepted campaign contributions. For the “2008 presidential elections, [Andres directly contributed almost three times as much as Alfy did to Hillary Clinton’s campaign](http://america.aljazeera.com/multimedia/2015/7/fanjul-family-benefits-political-donations.html), but Alfonso’s relationship with the Clintons is more well-known. The Alfonso Fanjul-Bill Clinton friendship dates to Clinton’s first run for president in 1992, when Fanjul co-chaired his campaign in Florida.” Al Jazeera used data from the Center for Responsive Politics to show that Alfy and his wife raised $120,000 at a single Miami event in 1992 when Alfonso was Clinton’s Florida chairman. They have also given more than $100,000 to the Clinton Foundation. Andres and his wife have given Hillary Clinton $27,500 since 2004.

But wait, it gets worse. These billionaires want to con Floridians into paying top dollar for agricultural land by selling it at condominium prices. Farago reported that “the Fanjuls and Mott descendants have one objective: [for the public to value their hundreds of thousands of acres based on an imaginary value as subdivisions and not agricultural land](http://www.huffingtonpost.com/alan-farago/oligarchs-in-florida-how_b_9484616.html). Every move of the Sugar PR juggernaut, including fawning local economic councils, Chambers of Commerce and trade groups, is to make that value less hypothetical, as though there were a thousand homes per acre and not a crop— sugarcane—that, in excess, poisons people and is more addictive than cocaine.”

And like Big Electric in Florida that punishes any legislator, Republican or Democrat, who threatens their monopoly by supporting solar energy, Big Sugar also punishes anyone who deigns to point out their destructive pollution. In the wake of the Citizens United U.S. Supreme Court decision transforming corporations into people and money into speech, “Ray Judah, a [24-year county commissioner] Republican, was [made to pay a price for his long-standing criticism of Big Sugar’s dominance of water management infrastructure](http://eyeonmiami.blogspot.com/2016/03/pollution-and-republican-voter-in.html). In 2012, Big Sugar flooded hundreds of thousands in negative TV ads. Although the tactic is well known at state level, this was the first time dark money from Big Sugar had targeted a local county commission race in Florida,” according to Eye on Miami.

The Eye on Miami article further observed that in the wake of the Florida primary destruction of its favorite son, Senator Marco Rubio, that “Big Sugar’s response has been to deploy tactics from its playbook developed decades ago: carefully orchestrating press events, attacking harmless environmental groups as ‘extremist,’ rallying economic councils around soft and expedient ‘solutions,’ and misdirection. Today [Big Sugar is forcing the public acquisition of lands south of Lake Okeechobee now in sugarcane production to the deep, dark](http://eyeonmiami.blogspot.com/2016/03/pollution-and-republican-voter-in.html). Instead, it floats peripheral issues to the surface, supported by the industry’s chief allies; Gov. Rick Scott, his hand-picked Big Sugar governing board, and Agriculture Secretary Adam Putnam: all is well, progress is being made, be patient, stay the course.”

The *Treasure Coast Palm*, citing estimates from Zac Jud, a marine biologist and education director at the Florida Oceanographic Society in Stuart, reported that the massive fish kill from blooming brown algae had [killed “‘tens of millions of fish’” and “‘up to 50 species of fish and other marine animals died](http://www.tcpalm.com/news/indian-river-lagoon/health/sebastian-has-brown-tide-that-sparked-brevard-county-fish-kill--2f3231af-e29f-446b-e053-0100007f835b-373905301.html).’” Both estimates are much higher than the official Florida Fish and Wildlife Conservation Commission’s estimates of “‘tens of thousands of fish’” and “‘16 species of fish and crabs died.’” Jud offered no reason for the blooming brown algae, other than to note that the massive discharge from Lake Okeechobee was not responsible.

However, in September 2013, the *Treasure Coast Palm* reported the preliminary findings of a study conducted by Brian Lapointe, of Florida Atlantic University’s Harbor Branch Oceanographic Institute. That initial report indicated that “researchers at Harbor Branch Oceanographic Institute in Fort Pierce have found [sewage contaminating the entire 156-mile lagoon](http://www.tcpalm.com/news/indian-river-lagoon/health/politicians-want-to-switch-septic-users-to-sewer-to-help-indian-river-lagoon-but-cost-a-problem-ep-3-332708951.html).” They found ammonium and nitrate isotopes at an average of 5 parts per million, well above the 3 parts per million indicating the source is sewage.

An April 2015 *Treasure Coast Palm* article established that just [slightly under 300,000 septic tanks lined the Indian River Lagoon spanning five counties](http://www.tcpalm.com/news/indian-river-lagoon/health/investigation-move-over-fertilizer-septic-tank-drainage-also-contaminating-indian-river-lagoon-ep-37-332670631.html). Lapointe’s research indicated that septic tanks were more responsible than fertilizer runoff from agriculture. Septic tanks installed before 1983 could be 25 feet from the waterway and 6 inches above groundwater at the seasonal high. Septic tanks installed after 1983 had to be 50 feet away from the waterway and 2 feet above groundwater. Stormwater increases the amount and concentration of nitrogen flowing into the lagoon. The article pointed out that “roughly half of Florida’s 2.7 million septic systems were installed before 1983.” In 2010 the state legislature passed legislation requiring home owners to have their septic tanks inspected once every five years and repaired if necessary at home owners expense. The newspaper noted that “tea party leaders and other critics pressured the Legislature into repealing the law in 2012. Counties were put in charge of inspections and can choose not to do them. Indian River and St. Lucie counties do no routine inspections.”

In late October 2015, Lapointe’s updated study was released to the Martin County Board of Commissioners, who had commissioned the study. The *Treasure Coast Palm* reported that Lapointe’s research concluded “[septic systems are a primary source of St. Lucie River pollution](http://www.tcpalm.com/news/indian-river-lagoon/health/research-septic-systems-primary-source-of-river-reef-pollution-1f41133f-a788-73a9-e053-0100007f27b1-335245101.html).” While conceding that agriculture fertilizer was a source, septic tanks were a “primary contributor.” The study also reported that “septic systems dump more than 4.4 million pounds of nitrogen each year” into the 156-mile long lagoon ecosystem. A December 2015 *Treasure Coast Palm* article indicated that while local elected officials were growing more concerned about the septic systems polluting the Indian River Lagoon, [not infringing home owners’ property rights](http://www.tcpalm.com/news/indian-river-lagoon/health/legislature-slow-to-act-on-indian-river-lagoons-septic-tank-pollution-25ed382c-328a-655c-e053-010000-360606661.html), angering home builders, and costs of sewer line hookups were still inhibiting factors preventing system-wide remediation action.

After the massive fish kill in the Indian River Lagoon, the *Miami Herald* observed that the hotel industry had prevailed upon the Brevard County commissioners not to call the mass killing of fish an “emergency” because an “emergency might scare away tourists” and that declaring an emergency and asking for cleanup and relief funds “[might only serve to offend our prickly governor](http://www.miamiherald.com/news/local/news-columns-blogs/fred-grimm/article69081862.html).”

While the scientific evidence points to unregulated and unmonitored septic systems, the economic evidence points to high costs to homeowners, and the political evidence points to fear of retribution from home builders and the Tea Party movement, Alan Farago did pinpoint an additional cause of this destructive loss of marine life: “political corruption infecting the state of Florida.” Farago gave specific examples, culminating in the EPA nutrient standards which our very own Emerald Coast Utilities Authority sided with Big Sugar: “Here are a few examples: regulations to provide numerical standards for mercury and sulfates in Florida waters? *Never happened*. Regulation to allow local government to stop phosphorous and nitrogen pollution in Florida waters? State legislature and Gov. Rick Scott voted, no. Protection of coastlines from massive overdevelopment? Absolutely not. Support for the U.S. EPA to regulate contaminants and enforce against violations in Florida? No.”

In addition to blaming Governor Rick Scott, Agriculture Secretary Adam Putnam, Florida Representative Matt Caldwell, House Speaker Steve Crisafulli, and Senator Joe Negron, Farago pointed to “dark money” and industry and voters. According to Farago, “[Voters who elect politicians in the pocket of powerful industries and trade associations that routinely make a mockery of democratic processes](http://www.huffingtonpost.com/alan-farago/on-floridas-massive-fish_b_9530084.html): Associated Industries of Florida, run by former Jeb Bush ally Tom Feeney, spewing dark money into negative advertising like algae blooms. The Florida Chamber of Commerce. The Florida Farm Bureau.” And, Farago reported, those 58 entities that opposed the EPA’s standards.

While the Emerald Coast Utilities Authority was aligning itself with Florida’s biggest polluters and contributors, what did the environmental movement think of the Florida Department of Environmental Protection’s “narrative” standards and the ability to actually monitor and regulate the waters? The short answer is that none of the environmental groups trusted the governor or his agency to enforce the law.

The Florida Native Plant Society Landscape Committee told the federal Environmental Protection Agency: “[Governor Rick Scott has methodically fired many FDEP and Water Management District scientists and employees who did their job, followed Florida Statutes and protected the environment. We need the EPA's backing in Florida now more than ever](https://drive.google.com/file/d/0B-w1JwXVKGGHQUxjd2VvNDh5dXM/view?usp=sharing).... In 1998 the EPA required Florida to develop numeric nutrient standards. After over a decade of the FDEP not moving forward. The EPA formally determined that nutrient criteria should be established for Florida and the Florida Native Plant Society and many other environmental organizations whole-heartedly agreed with this and supported the EPAs efforts to bring numeric nutrient standards finally to Florida. Do not back down now.”

The Sanibel-Captiva Conservation Foundation told the EPA that Florida’s DEP could not be trusted to protect the environment and that in “2007 our barrier island economy was devastated with a $40 million impact from two foot drifts of red drift algae caused by nutrient pollution. The taxpayers are paying for pollution caused by others at great expense when the cheapest solutions are source controls. This is the formula that has failed under the state rules.” The Foundation told the EPA that while the state had designated the tributaries to the Estero Bay as Outstanding Florida Water status, “within ten years each of these specially designated waters has become degraded by nutrient pollution and listed as impaired with significantly reduced biological abundance. This happened under Florida’s water quality regulations that the DEP will tell you imposes more restrictive conditions on permits where OFW and Aquatic Preserves are located. [The fact is, whatever they have been doing is not working. The narrative state standard is a failed public policy](https://drive.google.com/file/d/0B-w1JwXVKGGHSmozVnFsOFRiSVU/view?usp=sharing).”

The 1000 Friends of Florida environmental group told the EPA that the state’s “narrative” standard had been proven to be inadequate: “Rivers and streams covered by the state rule will not have true criteria. Instead, they have ‘thresholds’ that can be exceeded without nutrient reduction measures ever necessarily being required.... This threshold approach is [similar to previous descriptive nutrient state that Florida relied upon for years that failed to take timely corrective actions directed at nutrient reductions](https://drive.google.com/file/d/0B-w1JwXVKGGHa09VdXhaOTJEOTQ/view?usp=sharing). Essentially, the non-numeric descriptive approach resulted in nutrification of many water bodies, serious ecological decline, and inadequate monitoring of either up or downstream waters.”

The lawyer for Earthjustice, representing the Florida Wildlife Association, Sierra Club, Conservancy of Southwest Florida, and St. Johns Riverkeepers (parties to a lawsuit against the EPA), that the “DEP has disowned its responsibility and even its authority to produce numeric nutrient water quality criteria protective of the public health. See DEP Notice of Technical Changes. DEP is now also proposing an additional fix necessitated by its exclusion—[*at the behest of the polluting entities*](https://drive.google.com/file/d/0B-w1JwXVKGGHM1JFc1pJbExGYms/view?usp=sharing)—of the majority of flowing waters from the definition of ‘stream’” (emphasis added).

Clean Water Action of Florida strongly supported the EPA’s more stringent numerical criteria and was equally opposed to Florida’s DEP’s narrative standard: “We oppose the significantly less stringent standards and ‘thresholds’ proposed by the Florida Department of Environmental Protection.... Specifically, we oppose FDEP’s attempts to exempt Class III waters—including tidal, intermittent, and artificial waters, and those in South Florida—from having to comply with EPA standards.... [The standards proposed by EPA would offer far superior protection to those offered by FDEP](https://drive.google.com/file/d/0B-w1JwXVKGGHdmxDWjhwMEE1NGM/view?usp=sharing), which exclude numeric standards for many critically important water resources that are downstream, tidal, intermittent, and/or artificial in nature. Florida needs measureable, protective standards for all of its water resources.”

The U.S. Department of the Interior’s National Park Service, responsible for the Everglades and Biscayne National Parks, informed the federal EPA that it strongly supported the EPA’s numeric standards: “[Although Florida has had one of the most stringent narrative nutrient criteria for surface water in the country, these regulations have not been protective enough to prevent widespread water quality impairment due to nitrogen and phosphorus pollution in state surface waters](https://drive.google.com/file/d/0B-w1JwXVKGGHZ3dIN1B3NVpia28/view?usp=sharing).” The National Park Service noted that the EPA had determined that 14 percent of the state’s assessed estuaries, 1.6 percent of the state’s assessed coastal waters, 8 percent of the state’s assessed rivers and stream miles, and 5 percent of the state’s assessed lakes “are impaired because of nutrient pollution.”

The Center for Biological Diversity viewed Florida’s proposed standard as actually no standard at all because all it would accomplish would be to allow polluters to pollute and then for the DEP to study the problem. The Center commented to the EPA: “In November 2012, the EPA approved the Florida Department of Environmental Protection’s rule creating standards for 15% of the state’s flowing and estuarine, coastal, and marine waters. [Rivers and streams covered by the state rule will not have true nutrient criteria. Instead, they will have ‘thresholds’ that can be exceeded without nutrient reduction measures ever being required](https://drive.google.com/file/d/0B-w1JwXVKGGHWTBFNmxNZkEtR0E/view?usp=sharing). In order for these waters to have pollution limits, the presence of algae outbreaks, fish kills, or other types of biological failure would be required and subsequent studies linking the biological failure with the exceedence of the thresholds would need to be completed. The DEP rule has no commitment to do this, nor a timeline or deadline for study completion; therefore, waters can indefinitely exceed the thresholds with no requirement to reduce nutrient pollution inputs.”

Finally, the Alliance for the Great Lakes (yes, those lakes) told the EPA that it strongly supported the EPA’s rule because Florida’s rule was woefully inadequate: “However, the Florida criteria fell far short of Clean Water Act requirements. The rule applied numeric criteria to only a handful of estuaries, lakes and spring vents. It exempts all tidal, intermittent, altered artificial waters and South Florida waters from numeric nutrient standards now and in the future.... Yet the EPA clearly requires numeric criteria to be implemented for all Class I (drinking) and Class III (swimmable/fishable) waters. [All in all, the rule did not include up to 85% of Florida waters, effectively exempting most point source discharges of pollution in the State. EPA should not approve any rule with such a limited effect](https://drive.google.com/file/d/0B-w1JwXVKGGHYWhSR21GVWFWZEk/view?usp=sharing).”

The state of Florida is so bad at environmental protection that when the state’s Department of Economic Opportunity and the Florida Division of Emergency Management Recovery Bureau held a Small Business Impact Workshop for businesses who had been negatively affected by the Lake Okeechobee disaster, Eye on Miami described what the business people would learn. “At this workshop, small business owners will learn to distinguish between a dead dolphin and a live dolphin.” They would receive an official state-sponsored signed booklet “describing how fish kills recently observed in a few small parts of the state are caused by radical extremists.” “Participants will learn to identify species of dead fish.” “[They will also learn to navigate useless websites maintained by the Florida Department of Environmental Protection that appear to offer transparency and current data and information but are only for show](http://eyeonmiami.blogspot.com/2016/03/business-owners-in-florida-learn-what.html).”

So, when it comes to protecting Florida’s vital waters—waters necessary for survival, as well generating tremendous business and tax revenues—who is one to believe? Polluting industries who privatize profits and socialize environmental cleanup costs, while poisoning the public, marine life, and marine agriculture? Polluting industries who at the same time spend enormous sums of money on political contributions and lobbying, as well as regulators who enable the polluters? Or, environmental groups and unpaid citizen activists who out of love for the environment collect water samples according to strict scientific protocols, volunteer one-hour every Saturday to clean up the beaches, or who pour over regulatory permits and scientific studies in an effort to stop the polluters from doing more damage?

It is understandable that corporations maximize the return on investment for their shareholders, which means maximizing their profits by reducing their labor, materials, taxes, and regulatory costs. But, that maximization of investor returns means that the real, external costs of pollution—damage to the environment, damage to property values, and damage to health and life—are born by ordinary citizens. Surely, downstream property owners have rights, just as upstream polluters have rights. And surely the public has rights. We have common ownership of the tributaries, streams, creeks, rivers, bays, and aquifers. Why is it that in case after case, economic power translates into political power and subsequently environmental destruction and social injustice? Why is it that regulators and the elected officials we elect to monitor and provide oversight of regularly fail to do their constitutional and moral duties? These are not isolated cases.

The *Miami Herald* noted that three almost simultaneous water crises—the Indian River Lagoon contaminated by septic systems, the Biscayne Bay contaminated by Turkey Point nuclear power plant discharges, and the Lake Okeechobee from Big Sugar and Big Cattle fertilizer runoffs—“[indicate that much of Florida’s Atlantic seaboard is in the grip of a massive water-quality emergency](http://www.miamiherald.com/news/local/news-columns-blogs/fred-grimm/article69081862.html).” Surely, there is a systemic cause to a systemic problem.

Kartik Krishnaiyer, writing at the Florida Squeeze website on the Turkey Point crisis, strongly suggested that “the time has come for Florida’s members of Congress and those concerned about the ecosystem to [push for federal intervention, since we know the state won’t act](http://thefloridasqueeze.com/2016/03/23/turkey-point-a-growing-threat-to-a-sustainable-southern-florida/).”

Who really benefits from weak and vague environmental rules, budgetary cutbacks to departments responsible for ensuring water quality and health, and elected officials whose first responsibility is not to antagonize their donors? It is certainly not the public and it is certainly not the environment.

If this is the model of environmental regulation for the entire state of Florida, one can imagine what that model is in Escambia County.

**The Not So Friendly Perdido Bay**

Many residents of Pensacola probably do not remember Perdido Bay as anything other than the toilet bowl for the Florida Pulp and Paper, St. Regis Paper, then Champion International, and now International Paper mill in Cantonment. But, this was not always the case.

In Jim Lane’s, “[A Brief History of Perdido Bay](http://www.friendsofperdidobay.com/hispb.htm),” published in April 2004, he noted that before the first paper mill went operational in 1941 that “water in the bay near the mouths of creeks was fresh enough that freshwater fish were in the bay as well as in the creeks.” Fisherman in flat-bottomed wooden boats poled around the bay and hauled in mullet with fishing nets. Other fisherman used poles and homemade lines to catch “croakers, red fish, pin fish, catfish, and speckled trout.” After paper production increased in the 1940s and 1950s, the “water turned a dark reddish brown, and swimmers in the upper bay would emerge from the water coated with reddish brown fibers. Aquatic vegetation disappeared, and the number of fish and minnows decreased noticeably.”

In July 2014, the Friends of Perdido Bay newsletter highlighted one volume of the Champion-funded Livingston study of Perdido Bay based on the recollections of long-time residents. The newsletter noted, “long term residents of Perdido Bay recall that prior to the mid-1940’s (the paper mill started up in 1941), the [bay contained extensive seagrass beds and water was ‘tea colored, but clear](https://drive.google.com/file/d/0B-w1JwXVKGGHLUxHS00wUjlVdzg/view?usp=sharing).’ Redfish, trout, blue crabs, shrimp and mullet were abundant and oysters were taken in various portions of upper Perdido Bay. Flounders were abundant on the white sandy bottom of the bay.” Indeed, in the same newsletter, Jackie Lane recalled “shrimping at night” with her family in the bay. And, Jackie Lane noted in another newsletter that she recalled that in Upper Perdido Bay where she lived that the bay’s bottom was “[paved with clams](http://www.friendsofperdidobay.com/Oct%2007.htm).”

The destruction of Eleven Mile Creek and Perdido Bay is a tale of how the economic power of a corporation (jobs, dollars in local economy, local taxes) combines with faulty science, complacent and/or complicit regulatory agencies, and, complacent or complicit local elected officials. At no point was public health and welfare the top priority. Money, money, money…was the top priority.

The underpinnings of this money approach—in both the regulatory and legal arenas—was science in the pursuit of profits.

Do not take my word for it. The 1999 Grand Jury report—a report issued by local residents who heard testimony from hundreds of experts and other witnesses, and reviewed corporate and government documents—came to the conclusion that the science put forth by Champion International in the 1990s was suspect and could not be trusted.

In 1999, Champion International employed 1,200 workers, had an $80 million payroll, and contributed $3.5 million in county taxes, according to the [1999 Grand Jury report](https://drive.google.com/file/d/0B-w1JwXVKGGHVTNRNHJwVU5ScGM/view?usp=sharing) (page 30 pdf). In 2006, the board of county commissioners were planning to fund more International Paper pollution. According to the August 2008 Friends of Perdido Bay newsletter, the commissioners plan “to [issue Pollution Control Bonds to IP so that IP can continue with its plan to increase production and pollution of Escambia County](http://www.friendsofperdidobay.com/July%2006.htm). When are our elected officials going to see the light? True, by lending them money, IP will continue to operate the mill. But at what cost to the public and the economic future of Escambia County. How will Escambia County attract clean industry to this area when it is one of the most polluted counties in the country? It is mind-boggling that the commissioners can’t see what the end result of their actions will be. IP is a big company and should be able to pay for the upgrades to the mill themselves.”

In late October 2014, International Paper (IP) put out a press release that was published by the [North Escambia website](http://www.northescambia.com/2014/10/international-paper-announces-90-million-reinvestment-in-cantonment-mill), the [*Pensacola News Journal*](http://www.pnj.com/story/money/business/2014/10/29/international-paper-commits-million-pensacola-mill/18142231/), and the [Studer Institute](http://studeri.org/2014/10/international-paper-reinvests-pensacola-mill/), though the latter added considerable extra research. The North Escambia and *Pensacola News Journal* articles noted that International Paper employed 400 people, their average wages were more than double the county’s average of $37,360, “had a local economic impact of nearly $330 million,” that “manufacturing directly contributed 14,500 jobs in northwest Florida,” and added an “additional 9,700 jobs in local businesses.” North Escambia used more of the plant’s press release than the newspaper. Both used the press release’s claim that International Paper was going to invest “90 million over the next five years to increase energy efficiency.” Both news outlets quoted Florida state senate president Dan Gaetz who praised “‘Northwest Florida’s business-friendly environment…’” And both outlets quoted then Escambia County commissioner Steven Barry who stated that the county “‘supports fostering the growth of our existing industry base.’” While IP was going to invest $90 million for “energy efficiency,” whatever that means, it was also going to get $5 million in infrastructure improvements and grants.

The Studer Institute reported that the $5 million came from the Oil Spill Recovery Act ($3 million) and the Florida Department of Transportation ($2 million) and would cover “road improvements at the Cantonment plant’s entrance off Muscogee Road and U.S. 29.” The Studer Institute also reported that the Escambia County commissioners had covertly helped International Paper when it “approved a resolution in support of what was then dubbed ‘Project Phoenix’ to seek grants from the Economic Development Transportation Fund Program to help an existing business in Escambia County ‘increase efficiencies, support and enhance its workforce and strengthen its competitive position.’” Studer noted that “Phoenix was the IP’s project code name.” Studer also noted that International Paper was supported by “Enterprise Florida, the Florida Department of Economic Opportunity, Florida Department of Transportation, CareerSource Florida, Escambia County, the University of West Florida’s Office of Economic Development and Engagement, CareerSource Escarosa, Gulf Power and the Greater Pensacola Chamber.”

Not one word was written about pollution, contamination, or destruction of Eleven Mile Creek or the Perdido Bay. And notice how the University of Florida is conflicted. It’s Office of Economic Development and Engagement supported the 2014 International Paper project, while the University of West Florida’s Center for Environmental Diagnostics and Bioremediation had run out of funding five years earlier (2009 and prior) to study Perdido Bay and Escambia Bay (Carl Wernicke, “A Call To Action,” August 30, 2009, behind paywall). Funny how that works. There was plenty of money to promote a polluting business, but not enough money to study environmental destruction by the same polluting business.

And the pollution coming from the International Paper plant is considerable.

The February 2007 Friends of Perdido Bay newsletter noted that in the mid-1990s Florida’s Department of Environmental Protection started the information warfare campaign (I mean new scientific buzzword) about how the more pressing problem was non-point source pollution like stormwater runoff and septic tanks, while point-source polluters, like the Big Three in Escambia County—International Paper, Gulf Power, and Solutia—are pushed out of public and regulatory focus. Jackie Lane reported that the local media completely ignored “Friends of Perdido Bay’s expert environmental engineer calculated that [IP’s effluent was the equivalent of 19,000 septic tanks dumping directly into the bay without even going through the drain fields](http://www.friendsofperdidobay.com/Feb07.htm).” In 2008, the Friends of Perdido Bay reported that the increased amounts of effluent permitted (27,000 pounds per day of solids, and, 4,500 pounds per day of biochemical oxygen demand) was “[equivalent to 38,000 septic tanks discharging directly to the environment](https://drive.google.com/file/d/0B-w1JwXVKGGHdUdCWTNuQ2xiMnc/view?usp=sharing).”

What of the science that was used in defense of Champion International and then International Paper? In science, there are only two valid conflicts. One, what are the facts? And two, the interpretation of the facts. It was in the realm of interpretation of the data that Dr. Livingston decided to deploy his analytical skills to divert attention away from the toxic effluent of the paper mill. But, at first, he decided to confuse the issue with “facts.”

The 1999 Grand Jury report (page 33 pdf) stated the following conclusion: “The effect of the wastewater is degrading to the waters of Eleven Mile Creek and Perdido Bay, which show depressed oxygen levels, chronically toxic concentrations ofun-ionized ammonia, nutrient enrichment and elevated levels of specific conductance (salinity). For many years, however, the mill's corporate owners disputed this.”

Throughout the 1980s, Champion International operated under a number of variances because it could not meet any U.S. or Florida environmental standards. In September 1987, applying for a permit and variances, the owners’ permit application was challenged by the Friends of Perdido, Perdido Bay Environmental Association, and the state of Alabama (page 35-36 pdf). In December 1989, the permit was issued with stipulations requiring the company to “study the effect of effluent on Eleven Mile Creek and Perdido Bay,” as well as other studies that would change its operations and effluent. The Grand Jury noted that by 1988, the EPA had determined that “Champion was the source of more than one-half the oxygen consuming pollutants in Perdido Bay.” The Grand Jury further noted that the EPA doubted “whether Champion could give ‘reasonable assurance’ of compliance with water quality standards.”

In November 1992, Champion International was sued for $500 million by local residents. The suit was settled for $5 million. Champion International was allowed to keep operating while not admitting to any wrongdoing.

What happened next beggars belief. But, given the long arc of pollution that does not bend towards justice unless forced, the Grand Jury report (page 36 pdf) documented that the entire problem of monitoring the environment was shifted to Champion International. The state of Florida abnegated its legal and moral duties to residents of the county.

In the Grand Jury’s telling: “Northwest District of DER [Department of Environmental Regulation] then stopped almost all ambient water quality monitoring in the Perdido Bay system, and elsewhere in the area, even though the mill was visibly and obviously polluting Eleven Mile Creek. Biologists were assigned to other duties, the Pensacola lab was dismantled, and the task of monitoring was given to the Northwest Florida Water Management District (‘NWFWMD’). The water management district could not perform this work, however, because of lack of funding. Monitoring was left to Champion, its paid consultants [Dr. Robert J. Livingston and others], and to volunteers from the Bream Fishermen’s Association.”

Remember, politicians in northwest Florida had put into the Florida constitution that this specific water district would have one-twentieth the funding of the other districts. It would essentially be so underfunded as to be unable to execute its basic mission.

Why did not state-level decision-makers require Champion International to fund an independent scientific research team from the National Academy of Sciences?

Neither the state nor the local regulatory bodies were interested in finding out the truth because if you identify the source of pollution, then fines must be levied or an operating permit rescinded. It would be far more beneficial not to find anything too controversial or material.

The 1999 Grand Jury report (page 36 pdf) stated that “soon after” the local residents filed their lawsuit (November 1992) that Champion International released the results of their own consultants’ research. Bear in mind, the research had started in or soon after December 1989, which was a condition of the company’s “temporary permit.”

The Grand Jury reported (pages 36-37 pdf) that experts from inside and outside the Florida DEP and the federal EPA called the 15,000-page report “confusing and misleading.” The EPA “remarked that ‘the report appears to attempt to take the burden off the mill for impact to Perdido Bay by supplying an enormous amount of, sometimes *inconclusive data* which would point the reviewer to *other possible avenues* adversely impacting the bay’” [emphasis Grand Jury].

The Grand Jury noted that the experts “found the Livingston Study contained numerous invalid comparisons, internal inconsistencies, and unsupported conclusions, as well as inconclusive data. DEP biologists specifically disagreed with the study’s conclusions about the causes of hypoxic conditions in the bay. They believed the study showed that ‘Champion’s discharge [was] a major contributor to the problems in the bay.’”

Even more incredibly, the Grand Jury reported that the “EPA also noted that the study did not allow for determination of the impact of mill effluent on the upper bay, because Champion’s consultants did not place a monitoring station in the mid portion of the upper bay. This failure is thought to diminish the validity of any findings about the effects of mill effluent.”

The Grand Jury concluded, “In sum, the Livingston study did not answer important questions asked of Champion: What is the assimilative capacity of the Perdido Bay system? What are the sources, amounts and fate of toxic substances and nutrients entering the system? At best, the study allowed for conjecture about the answers to these questions; at worst, the study pointed to *erroneous conclusions*” [emphasis added].

In other words, three years of measurements, and 15,000 pages of tables, figures, charts, maps, statistical modeling, and analysis, and Dr. Livingston’s team came up with the wrong answer.

What was the penalty for Champion International and Dr. Livingston’s research team? Do another study. Oh, they got a do-over.

Now, the scientific criticisms of Livingston’s study amounted to a repudiation of the study. Here is a peer-reviewed study—by experts inside and outside of the FL DEP and EPA—rejecting the study on grounds of “invalid comparisons, internal inconsistencies, and unsupported conclusions, as well as inconclusive data” and the only penalty for the company was to do another study. Livingston, an international authority on ecological systems, heading a team of 24 scientists, just happened to fail to put a monitoring station in the middle of the bay where it would better measure the toxic effluent coming from the paper mill. Livingston had produced the scientific equivalent of nonsense.

In order to believe that Livingston absent mindedly forgot to monitor a crucial part of the bay that was critical to his findings and conclusions you must also believe in unicorns and fairies.

It only gets worse.

Remember, this paper started off by arguing that economic power and political corruption lead to environmental destruction. To that equation you can add career destruction.

The Friends of Perdido Bay’s July 2009 newsletter noted against Champion International’s deep pockets and Livingston’s team of 24 scientists, that they had been helped by three FL Department of Environmental Protection biologists. With much sadness and respect, Jackie Lane reported, “Because of their testimony at that first [1987] administrative hearing, [the three biologists were given a reprimand and relieved of any authority. They were not fired but they were never promoted. In short, their testimony at that hearing ruined their careers](https://drive.google.com/file/d/0B-w1JwXVKGGHN0JnUWJScWhVMXc/view?usp=sharing). Those biologist continued to tell the truth about the condition of Perdido Bay and paid a dear price. Today two of those biologists have retired and a third is about to retire, at much lower retirement pay than if they had not told the truth. If Perdido Bay ever gets cleaned up, and even if it doesn’t, we all have to thank those biologists. Without their help, the truth about the damage the paper mill has caused might still go on being debated. So they have our thanks.”

Do you wonder why citizens, citizen activists, and environmental groups distrust elected officials and Florida’s regulatory agencies, as noted in the comments on EPA’s on the nutrient standards? Can you imagine any young biologists seeing these three fine biologists having their careers destroyed daring to stick their necks out on any other future case?

What the DEP decision-makers did was to punish scientists and science for the benefit of profit.

In May 2010, the Friends of Perdido Bay newsletter came to that conclusion. It is a conclusion they noted that can be found all across America and across industries, such as the coal industry where non-unionized miners are not protected by federal regulations, or the healthcare industry, or the financial industry. Jackie Lane observed, “This is your government which you think is working to protect you, your environment, your health and your investments. It is not. [It is working to protect the special interests who are able to pour millions of dollars into elections to elect their guy (or gal); the special interests who spend millions of dollars in lobbying](https://drive.google.com/file/d/0B-w1JwXVKGGHVjVnM2x2dDBmR0k/view?usp=sharing).”

It is entirely reasonable to suspect that the Livingston study was guided by Champion International and later International Paper. After all, they paid his salary, the salaries of his 24 scientists and support staff, the salaries and services of his outside consultants, the overhead for the university, and all lab expenses. And, his conclusions generally supported the company.

In May 2014, the Friends of Perdido Bay newsletter, included a section called “Science With an Agenda.” In brief, the company produced bad science to refute good science, while the EPA buried controversial findings that refuted the paper mill’s assertions. Jackie Lane observed quite rightly: “In 1986, the EPA was doing a large study on Perdido Bay for then-to-be-issued Champion permit. They found some very damaging data concerning paper mill effluent.... The EPA also found that Perdido Bay sediments contained certain heavy metals in high concentrations and that animal diversity in Perdido Bay was low. This EPA data was never published in final form and all graphs are stamped with ‘Preliminary-Subject to Revision.’ There is no written interpretation. The study was never completed. [One of the EPA scientist who came to our environmental meeting and declared the bay ‘dead’ was transferred out of the area](https://drive.google.com/file/d/0B-w1JwXVKGGHaU1kSldoR1VBLWs/view?usp=sharing).”

But, there is an additional twist. The Friends of Perdido Bay reported two separate facts in two different newsletters which taken together suggest that Livingston’s scientific strategy and tactics were deliberate acts. It was not that Livingston just happened to produce a bad scientific report. It was a bad scientific report by design.

The first clue was reported by the Friends of Perdido Bay in their July 2010 newsletter. Jackie Lane remarked, “[Livingston claimed that everybody else’s science was junk accept his](https://drive.google.com/file/d/0B-w1JwXVKGGHU3RJdkZpaDlXZWs/view?usp=sharing).” The second clue was reported in the April 2009 newsletter. One of the billionaire investors in Champion International, a Democrat with close ties to then Democratic Governor Bob Graham, Laurence Tisch, also owned a piece of “[Lorillard Tobacco a subsidiary of the Carolina Group](https://drive.google.com/file/d/0B-w1JwXVKGGHNXluRTFWbHlBM0U/view?usp=sharing).” Champion International was “a [company with a ‘soul’ pushed by the Clinton/Gore administration](https://drive.google.com/file/d/0B-w1JwXVKGGHOHJscjFZNWpnMGM/view?usp=sharing).”

How does “junk science” and “Lorillard Tobacco” go together? In the 1990s, the Tobacco Institute and the tobacco industry were the pioneers in producing misleading science in defense of their cancer-causing products while characterizing the scientific research of tobacco opponents as “junk science.”

The word “junk” or “junk science” is a term of art that can be traced directly back to the tobacco industry, its Tobacco Institute, and a bevy of public relations and law firms, and industry-financed scientists with an ideological desire to defend the profits of tobacco firms. That Livingston would use the word or phrase “junk science” in the realm of EPA’s environmental regulation suggests that he conducted his scientific research with a deliberately designed pro-company agenda and that he was plugged into the larger tobacco industry strategy. Laurence Tisch, who already owned Lorillard Tobacco company and was already using that assault-on-science strategy, owned a shade under 8 percent of Champion International. Can anyone believe that Tisch would not bring in his own tobacco company lawyers and public relations people to nudge Livingston in the right direction and keep the good doctor onside?

Thus, we have the suspicion that the scientific strategy and tactics of Livington’s study is consistent with the larger tobacco industry strategy. The timeline is certainly consistent. In 1990, Tisch’s Loews Corporation purchased 7.36 million Champion shares at $27.35 per common share. It was only in December 1989 that the temporary permit was issued with the stipulation that Champion begin a scientific study of the effects of the plant’s effluent on Eleven Mile Creek and Perdido Bay. In November 1992, Livingston released his 15,000-page wrong answer.

Chris Mooney in his 2005 book (page 67), *The Republican War on Science*, described how “Big Tobacco” mobilized to fight the EPA’s finding that second-hand smoke was cancerous using its playbook from the 1950s and 1960s. Essentially, Big Tobacco “mobilized to undermine the science” by “‘manufacturing uncertainty,’” creating “‘doubt,’” and generating “‘controversy.’”

The 2010 book, *Merchants of Doubt*, by the scholars Naomi Oreskes and Erik Conway (pages 136 and 143), is the definitive study of this deliberate strategy. They noted that in 1986 the tobacco industry was hit by a “new panic” when a Surgeon General report “concluded that secondhand smoke could cause cancer.” Oreskes and Conway reported that the Tobacco Institute and scientist Fred Singer teamed up to challenge the EPA by claiming that “the EPA was doing ‘bad science.’” In 1990, Singer created the dichotomy of “‘sound science’” and “‘junk science.’” “Sound science” was used “to defend the tobacco industry” while they aimed to “discredit as ‘junk’ any science” that challenged the tobacco industry. They noted that Singer’s style was a “full-frontal assault, claiming that the science done at the EPA as ‘junk.’ The headline of the article he prepared for APCO [Associates, public relations firm] read: JUNK SCIENCE AT THE EPA.” One key element of “manufacturing uncertainty” and “doubt” was to claim “they ‘could not rule out other factors.’”

The Friends of Perdido Bay reported more than once that Livingston’s interpretation of the data always headed far away from the paper mill and placed the cause on factors that were absurd. Different newsletters pointed to different explanations. Cumulatively, Livingston’s explanations always exonerated the massively polluting paper mill.

In August 2006, Livingston claimed a strong chlorine smell coming from Perdido Bay in 2002 was due to its use by the Emerald Coast Utilities Authority. The newsletter pointed out, “Unfortunately, [ECUA has not used chlorine at the Bayou Marcus plant since 1998](http://www.friendsofperdidobay.com/July%2006.htm). A more likely cause of the ‘chlorine smell’ was the washing of sodium chlorate (a potent herbicide) into the bay from IP’s wastewater treatment ponds. In April of 2002, IP spilled 60,000 pounds of sodium chlorate at the mill. This sodium chlorate was washed into the wastewater treatment system.”

In June 2007, the Friends of Perdido Bay newsletter highlighted Livingston’s own testimony before an administrative hearing on International Paper’s permit to discharge its toxic waste in the nearby wetlands. Livingston told the administrative judge that he had selected Perdido Bay to study because there was “‘one major source of nutrients that were anthropogenic to the bay and the upper bay, and that was the pulp mill’” and that ecologically it “‘a relatively simple system.’” The Perdido Bay newsletter then asked, “[Why, after Dr. Livingston gave this testimony, did he then say that he considered the pulp mill to have little impact on the bay](http://www.friendsofperdidobay.com/June%2007.htm)? One can only speculate. Was Perdido Bay chosen as a site to test the environmental effects of conversion from chlorine bleaching to chlorine dioxide? If it was, Perdido Bay residents should certainly be compensated for the years of damage we have suffered due to the ‘experiment.’”

The June 2008 Friends newsletter called Livingston’s studies and findings “pure fiction.” Not a bad description considering the fact that the [1999 Special Grand Jury report](https://drive.google.com/file/d/0B-w1JwXVKGGHVTNRNHJwVU5ScGM/view?usp=sharing) characterized Livingston’s initial 15,000-page study as a wrong answer. The report concluded (page 38 pdf), after reviewing scientific reports and testimony from experts inside and outside of the regulatory agencies (Florida and federal), “In sum, the Livingston study did not answer important questions asked of Champion: What is the assimilative capacity of the Perdido Bay system? What are the sources, amounts and fate of toxic substances and nutrients entering the system? At best, the study allowed for conjecture about the answers to these questions; at worst, the study pointed to erroneous conclusions.” Earlier, the Special Grand Jury report noted that Livingston’s findings lined-up with the position of Champion International (page 33 pdf): “The effect of the wastewater is degrading to the waters of Eleven Mile Creek and Perdido Bay, which show depressed oxygen levels, chronically toxic concentrations of un-ionized ammonia, nutrient enrichment and elevated levels of specific conductance (salinity). For many years, however, the mill’s corporate owners disputed this.”

The Friends of Perdido Bay newsletter observed, “Maybe the algae blooms were used as explanations to hide toxic effects of chlorate on the ecosystem. We may never know. [But whatever the reason, the 20 years of Dr. Livingston’s data is pure fiction because he ignored the real problem in Perdido Bay—too much organic carbon](https://drive.google.com/file/d/0B-w1JwXVKGGHSjFGRlJKWHF1OGs/view?usp=sharing).” The newsletter also sadly observed, “The DEP said it was high salinity which killed the small trees which had been on the island for as long as I remember. We know that Florida’s environmental agency, DEP, is part of the deception. Too bad. But the deception is obvious.”

The October and December 2015 Friends of Perdido Bay newsletters pointed to the problem originally noted at the top of this paper: economic power and political power leads to environmental destruction.

In October 2015, the Friends of Perdido Bay observed after decades of struggle: “While we have had very little success in cleaning up our bay, we cannot say we haven’t tried. It is unfortunate that we have had to continue to fight for our bay and our property values when we have environmental agencies which are supposed to do this for us. [Both environmental agencies in the states of Florida and Alabama, and the EPA are well aware of the damage the paper mill is causing in our bay. They do nothing because of the influence of money on the political system](https://drive.google.com/file/d/0B-w1JwXVKGGHNERETXhUenMyZlE/view?usp=sharing). Perdido Bay could be a poster child for “corruption of money” on the political system. More than not doing anything, the environmental agencies have gone out of their way to cover up the damage.”

The Friends newsletter also observed, “If you don’t look, you don’t see the problems. But, the decline is very obvious to residents who have lived on the bay for many years. Environmental regulators have “no skin” in the game other than their jobs, and their jobs depend on their bosses who depend on the politicians for funding. That is the way it works.”

And this goes back to the politicalization of science. In Florida, scientists have told the truth and contradicted the corporate line that nothing they have ever done has damaged the environment risk their livelihoods and careers. In Florida, Republican governors and legislatures can reduce the amount of funding and the number of scientists for the Department of Health and the Department of Environmental Protection because they are for “small government” and “individual liberty” and “unleashing” corporations. Just understand that all that political malarkey is about increasing profits that destroy the environment and threaten your lives and property.

The December 2015 Friends of Perdido Bay newsletter looked back at the nutrient level controversy discussed above when the Emerald Coast Utilities Authority sided with Florida’s biggest industrial polluters and political contributors. Livingston had been responsible for recommending the nutrient levels for Perdido Bay—levels that would allow International Paper to escape sanction by setting “the highest nitrogen and phosphorus limits in the state of Florida.”

The Friends newsletter concluded, “[This exercise in falsifying data and hiding the real problem was undertaken at the highest government levels. EPA was totally aware of the problem](https://drive.google.com/file/d/0B-w1JwXVKGGHa1VPdThhQWlRVlU/view?usp=sharing). The Livingston study was undertaken to: 1) hide the effect of the papermill’s new bleaching chemicals on life in Perdido Bay, and 2) push for a ‘nutrient rule.’ I am certain it was done with collusion between chemical companies, government, and the paper company. I don’t believe that Livingston made up the toxic algae. I think that the algae was in the bay. How it got there is another question. Perhaps, it was seeded in the bay. I don’t believe it bloomed naturally.”

Actually, corporations, elected officials, and regulatory agencies do not need to collude. What Jackie Lane was probably referring to is what is called by economists as “regulatory capture.”

James Galbraith in his 2008 book (page 131) *The Predator State*, noted that corporations had worked closely with House Speakers Newt Gingrich and Tom DeLay in the 1990s and later with the George W. Bush administration to foster “corporate control” of the State. He observed that the administration “became little more than an alliance of representatives from the regulated sectors—mining, oil, media, pharmaceuticals, corporate agriculture—seeking to bring the regulatory system to heel…. This is the Predatory State. It is a coalition of relentless opponents of the regulatory framework on which the public purpose depends.” He also observed (page 132), “Their reason for being…is to make money off the state—so long as they control it. And this requires the marriage of an economic and a political organization, which is what in every single case, we actually observe.”

Simon Johnson and James Kwak in their 2010 book *13 Bankers* explained that regulatory capture was essentially ideological (page 6), though it incorporated traditional forms of capture: “Most important, as banking became more complicated, more prestigious, and more lucrative, the *ideology* of Wall Street—that unfettered innovation and unregulated financial markets were good for America and the world—became the consensus position in Washington on both sides of the aisle. Campaign contributions and the revolving door between the private sector and government service gave Wall Street banks influence in Washington, but their ultimate victory lay in shifting the conventional wisdom in their favor…”

The effects of regulatory capture for the Gulf Coast region are easily visible with the BP oil disaster in April 2010. Writing one year before eleven workers were killed on the Event Horizon platform, the Simon-Kwak Baseline Scenario website published a guest commentary by Ilya Podolyako, a soon to be graduate of Yale Law School specializing in regulatory law. She wrote that the Department of the Interior’s Mineral Management Service (MMS) had fallen victim to a form of regulatory capture in which “an [underpowered, understaffed regulator [is] working to control a wealthy, concentrated industry](https://baselinescenario.com/2009/05/17/guest-post-capturing-the-regulatory-mothership/). In these situations, the sheer imbalance in resources means that the regulated parties can reward or punish the agency, but not vice versa. Predictably, rational bureaucrats will choose to cater their policies to the benefit of the subjects instead of suffering their wrath…”

Podolyako further noted in the specific case of the MMS, “Even a person of upstanding moral character can understand the difficulty of resisting the repeated entreaties of Exxon and the like for the sake of sticking to an unadulterated scheme of allocating oil and gas exploration rights. Someone sitting at the MMS desk may well wonder if anyone would ever notice a shift away from the prescribed approach towards one that favors the companies they deal with on a day-to-day basis. These incentives to cooperate exist even though the relationship between the regulator and the regulated parties is facially adversarial, with MMS holding rights that producers want but cannot get.”

But, the case of the MMS may also been a case of the ideological capture that Johnson and Kwak wrote in *13 Bankers*. James Mulligan, writing in September 2011, one year after the BP oil spill, noted that the MMS had been created during the Reagan administration and put under the control of James Watt’s Department of the Interior. Watt did not believe in environmental regulation. The missions of the MMS included conducting auctions for offshore natural gas and regulating the same companies’ offshore rigs that were buying the leases and extracting the natural gas. Mulligan observed, “Minerals Management Service was born in a political era characterized by the push to unburden industry from government regulation and to achieve energy independence in the wake of the Arab oil embargo.... This mission to expedite oil and gas production is alive and well today in MMS, reinforced by the culture in which the agency operates.... Revenue maximization, on the other hand, has been a central focus of the agency since its creation. In fact, every MMS Director over at least the past 15 years has freely admitted that revenue generation and collection has dominated the Director’s attention…. According to environmental staff at MMS, the ability to conduct adequate environmental assessments has also been among the casualties of a tight budget.”

And though Mulligan was not apportioning blame for any litigant in his case study, it is interesting to note that he reported: “While BP is legally responsible for the spill and its impacts, [MMS played a role through permitting and oversight of BP’s drilling activities. MMS never assessed the environmental risks specific to BP’s Macondo well, choosing instead to exercise a ‘categorical exclusion’ under NEPA](https://drive.google.com/file/d/0B-w1JwXVKGGHLWM5RlNaWHA4d1U/view?usp=sharing). Although MMS considered the possible environmental impacts of a modest spill, the agency never addressed in its environmental assessments the possibility of a spill nearly as large as BP’s…”

In the BP oil spill we can see all the ingredients of regulatory capture—an ideology of promoting corporate goals as agency goals, the mismatch of regulatory resources, cutting of agency resources, and a willingness to give corporations a break from National Environmental Policy Act requirements. The same elements operate in Florida and Escambia County. These elements remain hidden because of a combination of burying the past, forgetting the past, and willful blindness.

**Conclusions**

There were many other Friends of Perdido Bay newsletters pointing out serious, fundamental flaws in Livingston’s findings. But, in the October 2015 and the December 2015 Friends of Perdido Bay newsletters squarely blamed political corruption and regulatory capture for allowing “fictional science” and “turning a blind eye” to destroy Perdido Bay. This is the reality of America’s free market system where tremendous disparities in economic power lead to capture of the government and its regulatory agencies, the subversion of science, and environmental destruction. This same explanation can be used to substantiate why environmental injustice disproportionately affects communities of color. But, this explanation also explains why poor communities, irrespective of racial or ethnic proportions, are negatively affected by environmental pollution. And, it helps explain why even white, middle class communities—even in Escambia County—are affected by environmental pollution.

The simple fact is: in the pursuit of profits for polluting industries and their financial backers on Wall Street—we are all expendable.

Part 4 turns with more specificity and granularity to Escambia County.