



CLARK PARTINGTON

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SENT VIA EMAIL ONLY -

Brett.cyphers@nfwwater.com
Brett J. Cyphers, Executive Director
Northwest District Florida Department
of Environmental Protection

Shawn.Hamilton@dep.state.fl.us
Shawn Hamilton, District Director
Northwest District Florida Department
of Environmental Protection

RE: Clean Water Act Violations - Indian Bayou

Dear Mr. Cyphers and Mr. Hamilton:

I represent (pro bono) Mrs. Emma Julia "Judy" Walker and her neighbors in the Monterey Shores neighborhood on Indian Bayou in Santa Rosa County. Mrs. Walker and her neighbors have for over a year been working to get your agencies to enforce the Clean Water Act (CWA) with regards to the Florida Department of Transportation (FDOT) and Santa Rosa County's road maintenance both on I-10 and San Juan Road. These water quality violations are well documented and have resulted in multiple public hearings and news reports, including a front page Pensacola News Journal (PNJ) article today. What they have not resulted in is any concrete enforcement action despite continued and flagrant violations of the CWA by both FDOT and Santa Rosa County.

It is the responsibility of the State agencies charged with the enforcement of the CWA to ensure that enforcement is uniform. Your enforcement should focus on violators regardless of whether those violators are private citizens, corporations or State/County agencies. Citizens should feel confident that the regulatory agencies responsible for the CWA are vigilant when it comes to public projects like road maintenance and the public entities responsible for that maintenance ought to be able to fully comply with federal and state laws regarding prevention of discharges into the waters of the U.S.

This has not, however, been the case with regards to Indian Bayou. I am told that every significant rain event in the past year has resulted in illegal discharges from one or both of these road maintenance projects. These illegal discharges have fouled Indian Bayou to the point of discoloration and have been clearly and continually documented by my client and her neighbors. Additionally, through the actions of Ms. Barbara Albrecht, a water quality specialist in the area acting as a non-paid consultant to the neighborhood, these matters have been brought before FDOT, NFWFMD and Santa Rosa County Board of County Commissioners. To date, citizens have received no meaningful indication that any enforcement action has been or will be taken regarding these violations.

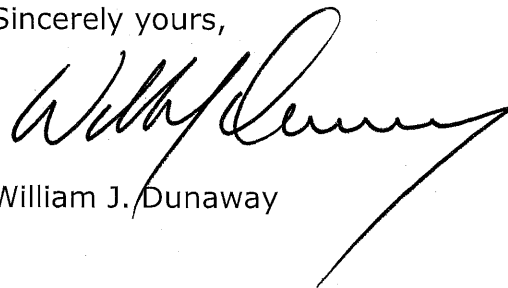
The monetary fines associated with the 25 rain events greater than 2" this past year have resulted in a potential monetary fine of \$625K (25 x \$25K) per the CWA. Compliance is always the goal of the CWA and I acknowledge the point made by FDEP spokesperson DeeAnn Miller in a recent article in the PNJ that FDEP is committed to "doing the right thing and preventing environmental harm before it ever occurs" but harm is occurring in Indian Bayou every time it rains and FDOT and Santa Rosa County have failed to prevent that harm by failing to prevent discharges following major rain events. Therefore, we are beyond compliance and enforcement is required. The FDOT and County have been kicking this can down the road for way too long.

It is time for you to issue a monetary fine and designate those fines to support restorative activities in the Indian Bayou Watershed. The fine, a designated sum of money, could be used to support the purchase of properties on the north side of I-10 and within the Indian Bayou Watershed. The monies could fund research allowing students who would work with a State Planner to develop a mitigation bank; these fines combined with the \$128K identified by the County to pave San Juan Road could turn this situation into a win-win for the bayou, the homeowners and the County and show that the agencies can lead by example.

These are just some examples of solutions. I urge you to convene a public forum in order to receive input on other potential solutions like I present in this letter. Without your leadership and action, FDOT and Santa Rosa County are likely to keep kicking this problem down the road. It is time for action; the environment needs you.

With kind regards, I remain

Sincerely yours,



William J. Dunaway

WJD/bfs

cc(via email):

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