

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
LEE PLAN AMENDMENTS ADOPTION HEARING**

**COMMISSION CHAMBERS  
2120 MAIN STREET**

**APRIL 16, 2014  
9:30 A.M.**

**AGENDA**

- 1. Call to Order**
- 2. Certification of Affidavit of Publication**
- 3. CPA2013-06: Concurrency Amendment.** Amend the Lee Plan to make Lee County concurrency consistent with State regulatory and non-regulatory concurrency requirements. The proposed amendment will make parks and recreation and transportation concurrency non-regulatory. Public education concurrency will remain regulatory due to an interlocal agreement between Lee County, the School District and five municipalities.
  - A. Staff Overview**
  - B. Board Questions**
  - C. Public**
  - D. Board Motion**
- 4. CPA2013-07: Wellfield Protection.** This amendment proposes two changes to the Lee Plan. The first change, following a request by the South Florida Water Management District (SFWMD), removes language in the Plan pertaining to SFWMD permitting authority. The second change updates the Lee Plan Map that identifies Lee County Utility wells and their associated protection zones which identify adjacent lands needed to protect the public water supply.
  - A. Staff Overview**
  - B. Board Questions**
  - C. Public**
  - D. Board Motion**
- 5. Motion to Adjourn**

## MEMORANDUM

FROM  
THE DEPARTMENT OF  
COMMUNITY DEVELOPMENT  
DIVISION OF PLANNING

DATE: April 2, 2014

TO: Board of County Commissioners

FROM:



Paul O'Connor, AICP, Director

**RE: April 16, 2014 Comprehensive Plan Amendments Adoption Hearing**

Attached please find the meeting packet for the 9:30 a.m. April 16, 2014 Board of County Commissioners Comprehensive Plan Amendment Adoption Hearing. This packet contains an agenda and a staff report for each proposed amendment. State reviewing agencies' comments and draft ordinances for the amendments being proposed for adoption are also included.

The **Adoption Hearing** includes two amendments to the Lee Plan. These include:

- CPA2013-06 – Concurrency Amendment
- CPA 2013-07 – Wellfield Protection

Brief descriptions of the proposed plan amendments can be found on the attached agenda.

If you have any questions about the proposed amendments or the attached materials, please contact me at 533-8309 or Brandon Dunn at 533-8585.

**CPA2013-07**

**WELLFIELD AND IRRIGATION**

**OVERLAY**

**CPA2013-07  
WELLFIELD AND IRRIGATION  
OVERLAY AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

Lee County Board of County Commissioners  
Sponsored Amendment and Staff Analysis

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**BoCC Public Hearing Document  
For the  
April 16, 2014 Adoption Hearing**

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(239) 533-8585*

**April 2, 2014**



**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2013-07**



**Text Amendment**



**Map Amendment**

<b>This Document Contains the Following Reviews</b>	
<input checked="" type="checkbox"/>	<b>Staff Review</b>
<input checked="" type="checkbox"/>	<b>Local Planning Agency Review and Recommendation</b>
<input checked="" type="checkbox"/>	<b>Board of County Commissioners Hearing for Transmittal</b>
<input checked="" type="checkbox"/>	<b>Staff Response to Review Agencies' Comments</b>
	<b>Board of County Commissioners Hearing for Adoption</b>

STAFF REPORT PREPARATION DATE: November 26, 2013

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. EXECUTIVE SUMMARY:**

This amendment proposes two changes to the Lee Plan. The first change, following a request by the South Florida Water Management District (SFWMD), removes language in the Plan pertaining to SFWMD permitting authority.

The second change updates the Lee Plan Map that identifies Lee County Utility wells and their associated protection zones. These zones regulate uses which may contaminate the public water supply.

**2. RECOMMENDATION:**

Staff recommends that the Board of County Commissioners *adopt* the proposed amendment to the Lee Plan. This recommendation includes deleting Map 13, updating Map 8, and renaming Map 8 to "Wellfield Protection Zones." The recommendation includes transmitting the following modified Lee Plan language shown in strikethrough/underline form:

~~**POLICY 1.7.10:** The Irrigation Well overlay in Bonita Springs (as defined in this plan) is hereby declared a critical area for future potable water supply, based on evidence that withdrawals from the main potable aquifer, the lower Tamiami aquifer, are approaching or exceeding the maximum safe yield. In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series. (Also see Policy 54.1.9 for new permit requirements for wells in Lehigh Acres, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map). (Amended by Ordinance No. 94-30, 00-22, Amended and Relocated by Ordinance No. 02-02)~~

**POLICY 2.4.2:** All proposed changes to the Future Land Use Map in critical areas for future potable water supply (~~Bonita Springs as described in Policy 1.7.10;~~ Lehigh Acres as described in Policy 54.1.9; and all land in the Density Reduction/ Groundwater Resource land use category) will be subject to a special review by the staff of Lee County. This review will analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources, and will assess whether the proposed land uses would cause any significant impact on present or future water resources. If the Board of County Commissioners wishes to approve any such changes to the Future Land Use Map, it must make a formal finding that no significant impacts on present or future water resources will result from the change. (Amended by Ordinance No. 92-47, 94-30, 00-22, 02-02)

**POLICY 54.1.9:** Lehigh Acres (as defined by outer boundaries of its Privately Funded Infrastructure overlay on the Future Land Use Map) is hereby declared a critical area for future potable water supply due to fluctuating water levels in the Sandstone aquifer. In response to this designation, the county will amend current regulations to provide that new wells in Lehigh Acres must be constructed to accommodate submersible pumps. (~~Also see Policy 1.7.10 for new permit requirements for irrigation wells in Bonita Springs, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map.~~) (Amended by Ordinance No. 94-30, 00-22, 02-02)

### **3. APPLICANT/REPRESENTATIVES:**

Lee County Board of County Commissioners/Lee County Division of Planning staff in conjunction with Lee County Utilities and Natural Resources staff.

### **4. REQUEST:**

Amend the Lee Plan to remove provisions which regulate permitting of the use of water for irrigation from the Lower Tamiami aquifer. Also update Map 8 of the Lee Plan, which

identifies the Wellfield Protection Zones for Lee County public wells and Aquifer Storage and Recovery wells.

## **B. FINDINGS OF FACT SUMMARY**

### **BASIS AND RECOMMENDED FINDINGS OF FACT:**

- The Lee County Board of County Commissioners initiated the proposed amendment on November 19, 2013 through Blue Sheet No. 20130964.
- Florida Statute Section 373.016(4)(a) states that waters in the state should be managed on a regional basis.
- Florida Statute 373.217 gives the Department of Environmental Protection (DEP) or water management districts exclusive authority for requiring permits for water consumption.
- Currently, Lee Plan Map 13 depicts the Irrigation Well Overlay.
- The South Florida Water Management District (SFWMD) currently maintains a comprehensive regulatory program.
- SFWMD has determined that Lee Plan Policy 1.7.10 conflicts with the districts jurisdiction.
- The proposed amendment would remove a redundant water management policy.
- Map 8 identifies Wellfield Protection Zones for permitted wells in the County.
- Lee County Land Development Code Chapter 14 Article III addresses contamination of potable water supplies through the creation of Wellfield Protection Zones. These zones are defined by the transit time of water within the aquifer.
- The Florida DEP is requiring Lee County to expand Aquifer Storage and Recovery (ASR) well protection zones.
- New public water supply production wells have been installed, and Map 8 should also be updated to include these new wells and provide more accurate location of existing wells.

## **C. BACKGROUND INFORMATION**

Lee Plan Map 13, The Irrigation Well Overlay, depicts the area identified in Policy 1.7.10 as a critical area for future potable water supply. The Overlay originally depicted a large area in the southern portion of the County including areas in Bonita Springs. The incorporation of the City of Bonita Springs and the subsequent removal of regulations specific to the area of the city from the Lee Plan resulted in the current extent of Map 13. The Overlay currently covers portions of the Southeast Lee County and Estero Planning Communities.

Lee Plan Map 8, currently titled “Cones of Influence,” indicates the travel time of groundwater surrounding various wellfields within the County and establishes protection from certain land uses within these zones. Florida DEP is currently requiring Lee County

Utilities to expand ASR protection zones from 500 to 2,640 feet. These zones are not depicted on the current Map 8.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

#### **INTRODUCTION**

In a letter dated October 16, 2013 (see Attachment #1), the South Florida Water Management District (SFWMD) identified provisions in the Lee Plan that do not conform to Florida Statutes. This letter provides that these provisions intrude on the jurisdiction of the SFWMD in regards to the permitting of irrigation wells in the Lower Tamiami Aquifer. The main source of this conflict is Policy 1.7.10 which regulates permits in the Irrigation Well Overlay identified in Lee Plan Map 13. To remove this conflict, the SFWMD has requested that Policy 1.7.10 be deleted. This will require deletion of references to Policy 1.7.10 in two other policies, Policy 2.4.2 and 54.1.9. Lee Plan Map 13 will also be deleted as it will be unnecessary without Policy 1.7.10.

Staff is also taking this opportunity to update Lee Plan Map 8 to more accurately identify the purpose of the map. The map should be named "Wellfield Protection Zones." Map 8 needs to be updated for several reasons. New public water supply production wells have been installed, and the map should also be updated to include these new wells. In addition, due to recent groundwater modeling FDEP is currently requiring Lee County Utilities to expand the ASR well protection zones from 500 feet to 2,640 feet. These ASR boundaries are depicted on proposed Map 8.

#### **PROPOSED CHANGES**

The amendment proposes the deletion of Policy 1.7.10. This will remove a conflict between the Lee Plan and the SFWMD in the Estero area. Lee Plan Policies 1.7.11 through 1.7.15 will be renumbered. Lee Plan Policies 2.4.2 and 54.1.9 both contain references to Policy 1.7.10. These references will be deleted.

Another proposed change is the deletion of Lee Plan Map 13, the Irrigation Well Overlay. The deletion of Policy 1.7.10 will render this map irrelevant and it should be removed from the Lee Plan.

The last proposed change is to adopt an updated version of Lee Plan Map 8, Cones of Influence, in order to include the latest data from the Division of Utilities and rename the map as previously discussed.

The changes to the relevant Lee Policies are shown here in strikethrough/underline format:

~~**POLICY 1.7.10:** The Irrigation Well overlay in Bonita Springs (as defined in this plan) is hereby declared a critical area for future potable water supply, based on evidence that withdrawals from the main potable aquifer, the lower Tamiami aquifer, are approaching or exceeding the maximum safe yield. In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series. (Also see Policy 54.1.9 for new permit requirements for wells in Lehigh Acres, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map). (Amended by Ordinance No. 94-30, 00-22, Amended and Relocated by Ordinance No. 02-02)~~

Lee Plan policies 1.7.11 through 1.7.15 will be renumbered to reflect this deletion.

~~**POLICY 2.4.2:** All proposed changes to the Future Land Use Map in critical areas for future potable water supply (Bonita Springs as described in Policy 1.7.10; Lehigh Acres as described in Policy 54.1.9; and all land in the Density Reduction/ Groundwater Resource land use category) will be subject to a special review by the staff of Lee County. This review will analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources, and will assess whether the proposed land uses would cause any significant impact on present or future water resources. If the Board of County Commissioners wishes to approve any such changes to the Future Land Use Map, it must make a formal finding that no significant impacts on present or future water resources will result from the change. (Amended by Ordinance No. 92-47, 94-30, 00-22, 02-02)~~

~~**POLICY 54.1.9:** Lehigh Acres (as defined by outer boundaries of its Privately Funded Infrastructure overlay on the Future Land Use Map) is hereby declared a critical area for future potable water supply due to fluctuating water levels in the Sandstone aquifer. In response to this designation, the county will amend current regulations to provide that new wells in Lehigh Acres must be constructed to accommodate submersible pumps. (Also see Policy 1.7.10 for new permit requirements for irrigation wells in Bonita Springs, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map.) (Amended by Ordinance No. 94-30, 00-22, 02-02)~~

Deletion of Policy 1.7.10 and references to it will bring the Lee Plan into conformance with Florida Statute 373.106(4)(a). Deleting Lee Plan Map 13 will remove an unnecessary provision from the Lee Plan. Adoption of an updated Lee Plan Map 8 will

keep groundwater protection policies current, will more accurately depict existing and new wells, and will now depict ASR well protection zones.

**B. STAFF RECOMMENDATION**

County staff recommends that the Board of County Commissioners *adopt* the proposed amendment.

**PART III - LOCAL PLANNING AGENCY  
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: December 11, 2013

**A. LOCAL PLANNING AGENCY REVIEW**

Staff gave a brief presentation regarding the proposed amendment. LPA member asked if there were other regulations addressing water permitting in Bonita Springs. Natural Resources Staff answered that there are and that staff is currently addressing them. No members of the public spoke, appeared, or addressed the proposed plan amendment.

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:**

The LPA recommends that the Lee County Board of County Commissioners *transmit* the proposed Lee Plan amendment as recommended by staff.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

The LPA accepted the basis and recommended findings of fact as advanced by staff.

**C. VOTE:**

<b>NOEL ANDRESS</b>	<u>ABSENT</u>
<b>STEVE BRODKIN</b>	<u>AYE</u>
<b>WAYNE DALTRY</b>	<u>AYE</u>
<b>JIM GREEN</b>	<u>AYE</u>
<b>MITCH HUTCHCRAFT</b>	<u>AYE</u>
<b>ANN PIERCE</b>	<u>ABSENT</u>
<b>ROGER STRELOW</b>	<u>ABSENT</u>

**PART IV - BOARD OF COUNTY COMMISSIONERS  
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: January 22, 2014

**A. BOARD REVIEW:**

Staff provided a brief overview of the proposed amendment. The Board of County Commissioners did not make any comments or have any questions concerning the proposed amendment. No members of the public addressed the Board of County Commissioners concerning the proposed amendment.

A motion was made to transmit the proposed amendment. The motion passed 5-0.

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

The Board of County Commissioners transmitted the proposed amendment as recommended by staff.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

The Board of County Commissioners accepted the findings of fact as advanced by staff and the LPA.

**C. VOTE:**

<b>BRIAN HAMMAN</b>	<u>AYE</u>
<b>LARRY KIKER</b>	<u>AYE</u>
<b>FRANK MANN</b>	<u>AYE</u>
<b>JOHN MANNING</b>	<u>AYE</u>
<b>CECIL L PENDERGRASS</b>	<u>AYE</u>



**PART V – STATE REVIEWING AGENCIES OBJECTIONS,  
RECOMMENDATIONS AND COMMENTS**

**DATE OF REVIEWING AGENCY COMMENTS:** Comments from the State Reviewing Agencies were due to Lee County by March 1, 2014.

**A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:**

Lee County received responses from the following review agencies addressing the transmitted amendment: Florida Departments of Economic Opportunity, Education, Environmental Protection, and Transportation; the Southwest Florida Regional Planning Council; and the South Florida Water Management District.

These agencies stated that they had no comments or concerns about the proposed amendment.

**B. STAFF RECOMMENDATION**

Staff recommends that the Board of County Commissioners **adopt** the amendment to the Lee Plan as transmitted.

**PART VI – BOARD OF COUNTY COMMISSIONERS  
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: April 16, 2014

- A. BOARD REVIEW**
- B. BOARD ACTION AND FINDINGS OF FACT SUMMARY**
  - 1. RECOMMENDATION:**
  - 2. BASIS AND RECOMMENDED FINDINGS OF FACT:**
- C. VOTE:**

<b>BRIAN HAMMAN</b>	_____
<b>LARRY KIKER</b>	_____
<b>FRANK MANN</b>	_____
<b>JOHN MANNING</b>	_____
<b>CECIL L PENDERGRASS</b>	_____



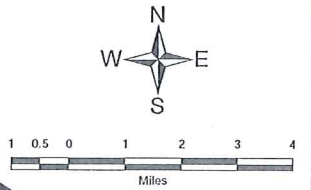
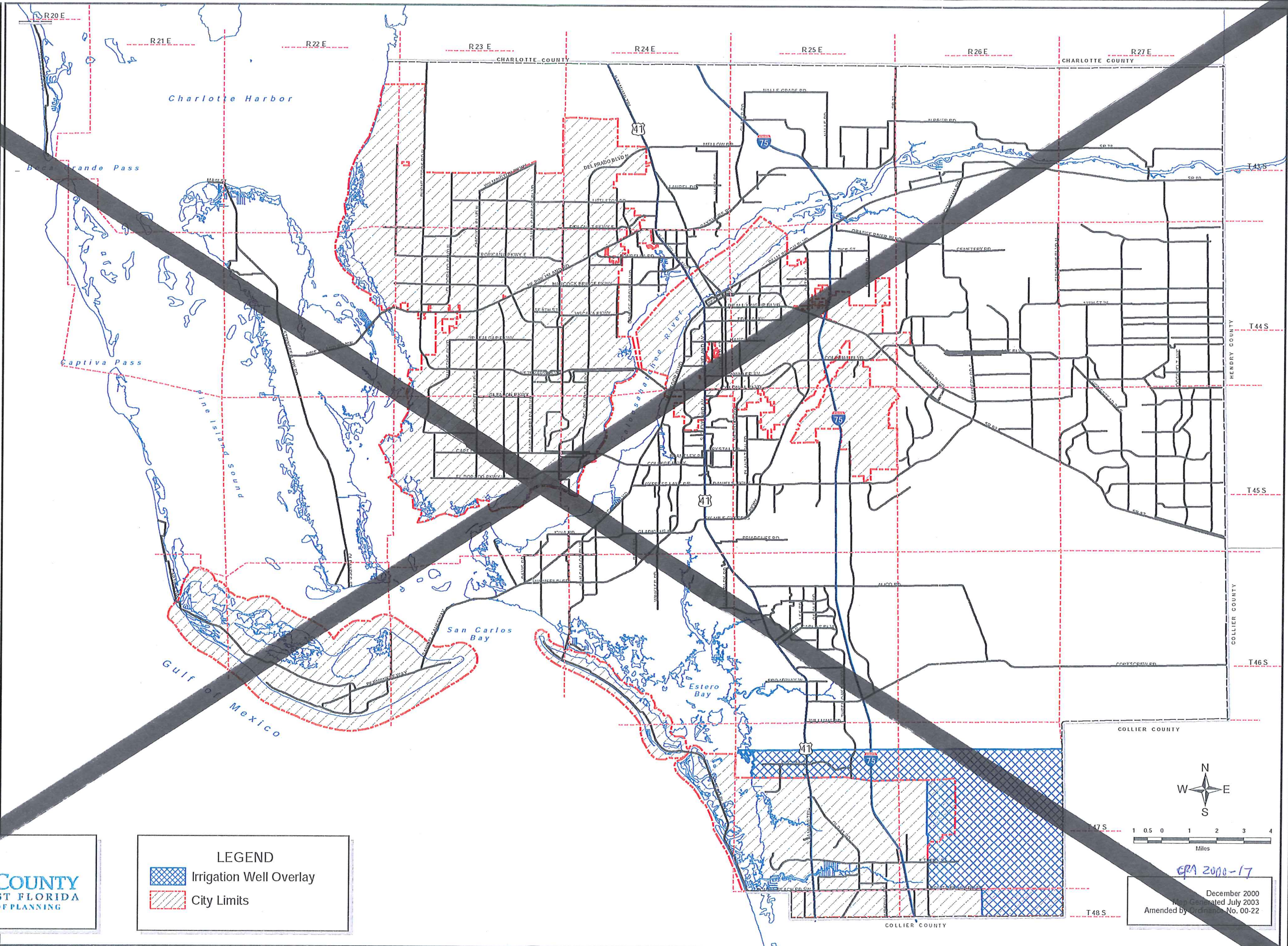
IRRIGATION WELL OVERLAY

(Lee Plan Map 13)



**LEGEND**

- Irrigation Well Overlay
- City Limits



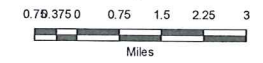
December 2000  
Map Generated July 2003  
Amended by Ordinance No. 00-22



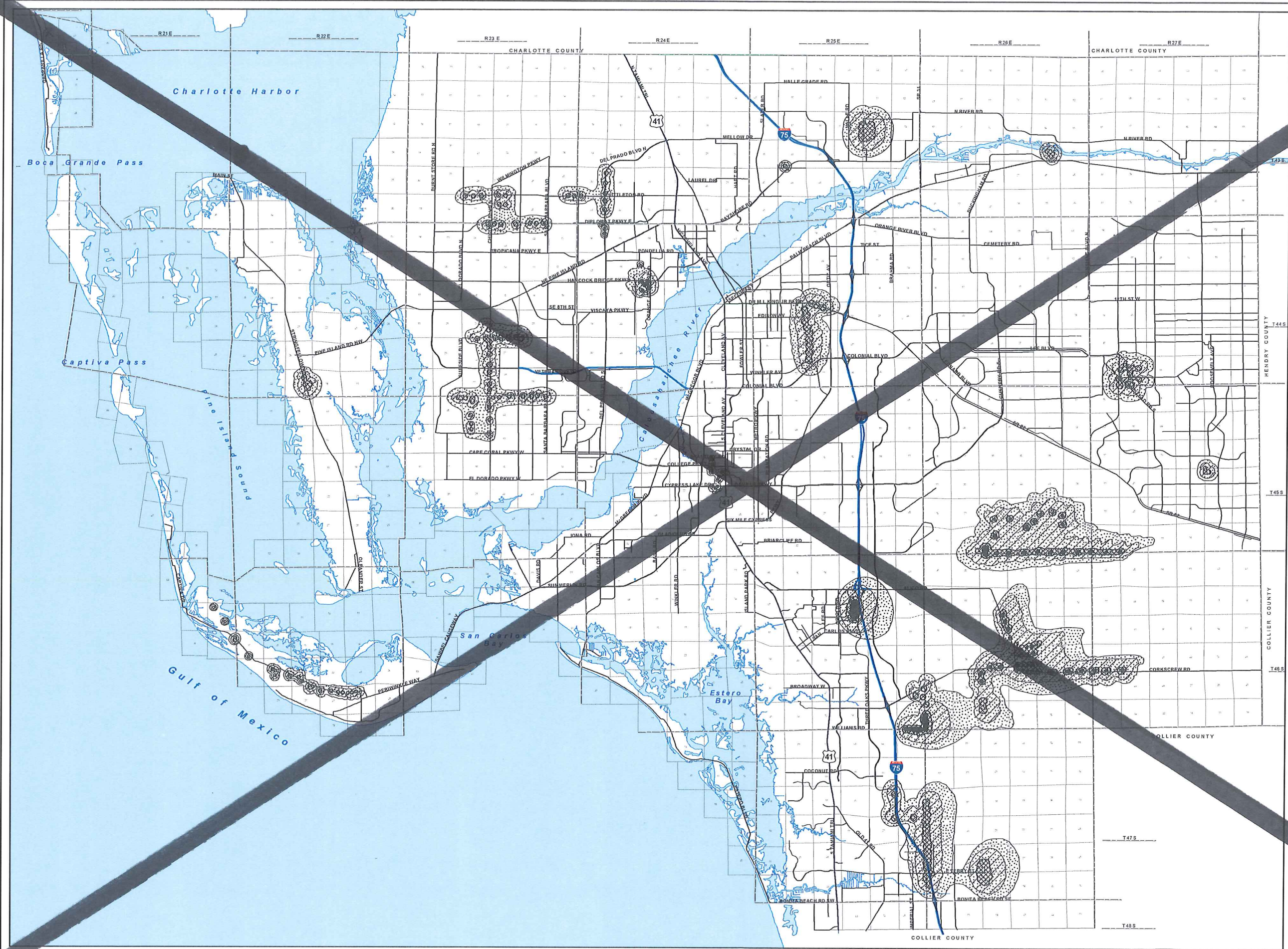
# CONES OF INFLUENCE

## Travel Times

- \* Permitted Wells
- 6-Months
- ▨ 1-Year
- ▧ 5-Years
- ▩ 10-Years



Map Generated: January 2008  
 City Limits current to date of map generation  
 Last Amended: August 13, 2007  
 Amended by Ordinance No. 07-13



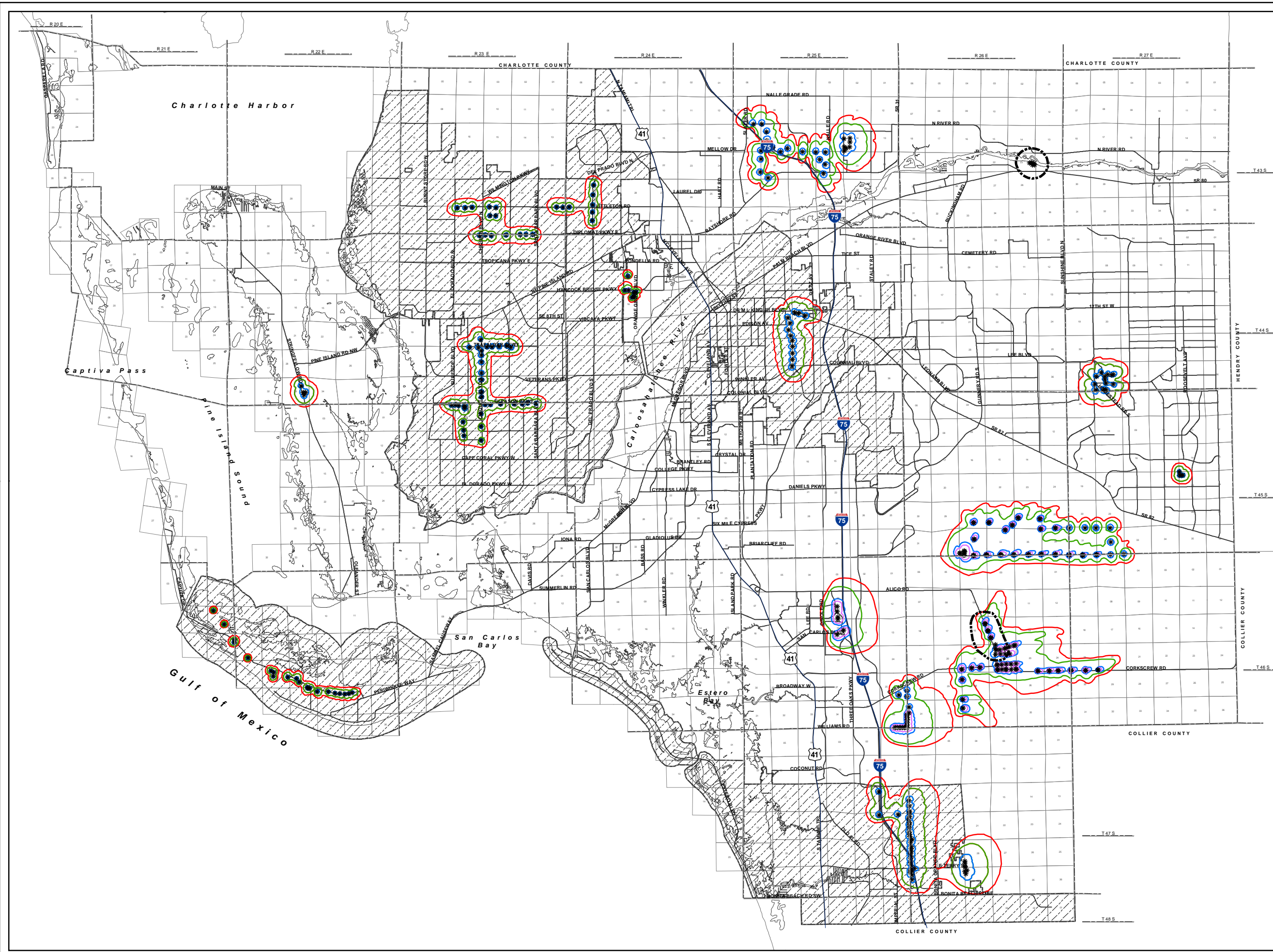


# Wellfield Protection Zones

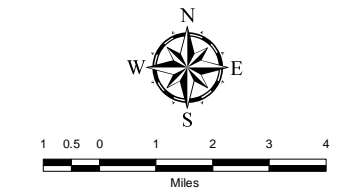
## COMPOSITE ISO-TRAVEL TIME MAP

### Travel Time

- 6-MONTHS
- 1-YEAR
- 5-YEARS
- 10-YEARS
- ASR PROTECTION ZONE
- \* Permitted Well
- City Limits



**LEE COUNTY**  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING



Map Generated: November 2013  
City Limits current to date of map generation

Last Amended: August 13, 2007  
Amended by Ordinance No. 07-13



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

October 16, 2013

Lee Werst  
Lee County Natural Resources Management  
1500 Monroe Street  
Ft. Myers, Florida 33901

LEE COUNTY DIV. OF  
NATURAL RESOURCES  
OCT 18 2013

RECEIVED

**Re: Lee County Comprehensive Plan**

Dear Mr. Werst:

Thank you for providing the South Florida Water Management District (District) with the opportunity to review Lee County's proposed changes to Ordinance No. 06-09. As noted in its September 12, 2013 letter, the District requested deletion of the renumbered Section 8.3.2(16), previously Section 9.3.2(16), purporting to regulate the use of water for irrigation from the Lower Tamiami aquifer, as such regulation is preempted to the District.

It has come to the District's attention that Policy 1.7.10 of the Lee County Comprehensive Plan ("Lee Plan") also intrudes into the District's exclusive jurisdiction. The Policy states:

The Irrigation Well overlay in Bonita Springs (as defined in this plan) is hereby declared a critical area for future potable water supply, based on evidence that withdrawals from the main potable aquifer, the lower Tamiami aquifer, are approaching or exceeding the maximum safe yield. In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series.

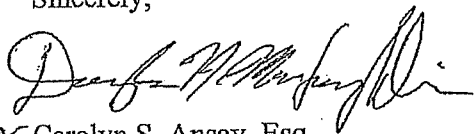
The Legislature stated that the waters in the state should be managed on a statewide and regional basis. See § 373.016(4)(a), Fla. Stat. (2013). To effectuate this goal, the Legislature enacted Section 373.217, Fla. Stat., giving the Department of Environmental Protection or water management districts exclusive authority for requiring permits for the consumptive use of water under Part II of Chapter 373, F.S. The law also superseded any existing state or local laws that conflicted with the Part II of Chapter 373, F.S., and preempted the enactment of future regulations.

The District adopted a comprehensive regulatory program. The Consumptive Use Permitting (CUP) Program protects the water resources from harm. § 373.216, Fla. Stat. (2013). All CUPs issued have been technically evaluated to determine if the water use has the potential to cause harm to the resources of the area. To further protect the Lower Tamiami aquifer, the District has adopted a minimum level for the aquifer. Fla. Admin. Code R. 40E-8.331. To prevent the

aquifer from reaching the minimum level, maximum developable limits have been set. See Section 3.2.4 of the Basis of Review for Water Use Permits within the South Florida Water Management District. Taken together, these rules and criteria are sufficient to accomplish the goals espoused by the Lee Plan.

Therefore, the District respectfully requests Lee County remove Policy 1.7.10 of the Lee Plan which purports to prohibit the construction of irrigation wells into the Lower Tamiami aquifer within a portion of Bonita Springs. If you have any questions, feel free to contact Jennifer Bokankowitz at 561-682-2258, or [jbokanko@sfwmd.gov](mailto:jbokanko@sfwmd.gov)

Sincerely,

  
for Carolyn S. Ansay, Esq.  
General Counsel

CSA/jdb



Rick Scott  
GOVERNOR



Jesse Panuccio  
EXECUTIVE DIRECTOR

RECEIVED  
MAR 03 2014

COMMUNITY DEVELOPMENT

February 25, 2014

The Honorable Cecil L. Pendergrass, Chairman  
Lee County Board of County Commissioners  
Post Office Box 398  
Fort Myers, Florida 33902-0398

Dear Chairman Pendergrass:

The Department of Economic Opportunity has completed its review of the proposed comprehensive plan amendment for Lee County (DEO No. 14-2ESR), which was received on January 30, 2014. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comments related to important state resources and facilities within the Department's authorized scope of review that will be adversely impacted by the amendment if adopted.

The County is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to Lee County. If other reviewing agencies provide comments, we recommend Lee County consider appropriate changes to the amendment based on those comments. If unresolved, such reviewing agency comments could form the basis for a challenge to the amendment after adoption. The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment.

Also, please note that Section 163.3184(3)(c)1, F.S., provides that if the second public hearing is not held within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment.



If you have any questions concerning this review, please contact Matt Preston, at (850) 717-8490, or by email at [matt.preston@deo.myflorida.com](mailto:matt.preston@deo.myflorida.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Ana Richmond". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ana Richmond  
Comprehensive Planning Manager

AR/mrp

Enclosure(s): Procedures for Adoption

cc: Mr. Paul O'Connor, Director, Lee County Division of Planning  
Ms. Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

**SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS**

**FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

**NUMBER OF COPIES TO BE SUBMITTED:** Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the Department of Economic Opportunity and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

**SUBMITTAL LETTER:** Please include the following information in the cover letter transmitting the adopted amendment:

\_\_\_\_\_ Department of Economic Opportunity identification number for adopted amendment package;

\_\_\_\_\_ Summary description of the adoption package, including any amendments proposed but not adopted;

\_\_\_\_\_ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

\_\_\_\_\_ Ordinance number and adoption date;

\_\_\_\_\_ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

\_\_\_\_\_ Name, title, address, telephone, FAX number and e-mail address of local government contact;

\_\_\_\_\_ Letter signed by the chief elected official or the person designated by the local government.

**ADOPTION AMENDMENT PACKAGE:** Please include the following information in the amendment package:

\_\_\_\_\_ In the case of text amendments, changes should be shown in strike-through/underline format.

\_\_\_\_\_ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

\_\_\_\_\_ A copy of any data and analyses the local government deems appropriate.

**Note:** If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

\_\_\_\_\_ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the Department of Economic Opportunity notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the Department of Economic Opportunity or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Economic Opportunity.

\_\_\_\_\_ List of additional changes made in the adopted amendment that the Department of Economic Opportunity did not previously review;

\_\_\_\_\_ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

\_\_\_\_\_ Statement indicating the relationship of the additional changes not previously reviewed by the Department of Economic Opportunity in response to the comment letter from the Department of Economic Opportunity.



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RECEIVED  
FEB 27 2014

February 24, 2014

COMMUNITY DEVELOPMENT

Paul O'Connor, AICP, Director  
Lee County Department of Community Development  
P. O. Box 398  
Fort Myers, FL 33902-0398

**Subject: Lee County, DEO #14-2ESR  
Comments on Proposed Comprehensive Plan Amendment Package**

Dear Mr. O'Connor:

The South Florida Water Management District (District) has completed its review of the proposed amendment package submitted by Lee County (County). The amendment removes a policy and map regarding the Irrigation Well Overlay. The proposed changes also update Map 8 to include recently installed water supply wells and updated wellfield protection zones. There appear to be no regionally significant water resource issues; therefore, the District forwards no comments on the proposed amendment package.

The District offers its technical assistance to the County and the Department of Economic Opportunity in developing sound, sustainable solutions to meet the County's future water supply needs and to protect the region's water resources. Please forward a copy of adopted amendments to the District. For assistance or additional information, please contact Deborah Oblaczynski, Policy and Planning Analyst, at (561) 682-2544 or [doblaczy@sfwmd.gov](mailto:doblaczy@sfwmd.gov).

Sincerely,

A handwritten signature in cursive script that reads "De Powell".

Dean Powell  
Water Supply Bureau Chief

DP/do

c: Ray Eubanks, DEO  
Deborah Oblaczynski, SFWMD  
Brenda Winningham, DEO  
Margaret Wuerstle, SWFRPC



*Florida Department of Transportation*

RICK SCOTT  
GOVERNOR

10041 Daniels Parkway  
Fort Myers, FL 33913

ANANTH PRASAD, P.E.  
SECRETARY

February 19, 2014

Mr. Paul O'Connor, AICP  
Lee County Planning Division  
P.O. Box 398  
Fort Myers, FL 33902-0398

**RE: Lee County 14-2ESR Proposed Comprehensive Plan Amendment (Expedited State Review Process) – FDOT Comments and Recommendations**

Dear Mr. O'Connor:

The Florida Department of Transportation, District 1, has reviewed the Lee County 14-2ESR Proposed Comprehensive Plan Amendment transmitted under the Expedited State Review process (*transmitted by the Board of County Commissioners on January 22, 2014*) in accordance with the requirements of Florida Statutes (F.S.) Section 163 and Chapter 9J-11 of the Florida Administrative Code (F.A.C.). The Department offers the County the following comments and recommendations for your consideration regarding the proposed amendment.

**Lee County CPA2013-07:**

The Lee County CPA2013-07 proposes to:

- 1- Amend the Lee Plan to remove provisions which regulate permitting of the use of water for irrigation from the Lower Tamiami aquifer as requested by the South Florida Water Management District.
- 2- Update Map 8 of the Lee Plan, which identifies the Well Field Protection Zones for Lee County public wells and Aquifer Storage and Recovery wells.

**FDOT Comment # 1:**

The Department has determined that the changes associated with the proposed Comprehensive Plan Amendment CPA 2013-07 are not anticipated to adversely impact any important state transportation resources or facilities. Therefore, FDOT offers no further comments on this amendment.

Thank you for providing the Department with the opportunity to review and comment on the proposed amendment. If you need additional information or would like to discuss these comments, please contact me at (239) 461-4300 or [lawrence.massey@dot.state.fl.us](mailto:lawrence.massey@dot.state.fl.us).

Sincerely,

Mr. Paul O'Connor  
Lee County 14-2ESR - FDOT Comments and Recommendations  
February 19, 2014  
Page 2 of 2



Lawrence Massey  
District 1 Growth Management Coordinator  
Southwest Area Urban Office

*LLM/gmb/llm*

*Cc: Mr. Ray Eubanks, Florida Department of Economic Opportunity  
Mr. Scott Rogers, Florida Department of Economic Opportunity*

**Miller, Janet**

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**From:** O'Connor, Paul  
**Sent:** Wednesday, February 19, 2014 8:39 AM  
**To:** Dunn, Brandon; Miller, Janet  
**Subject:** FW: Lee County 14-2ESR Proposed

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**From:** Stahl, Chris [mailto:Chris.Stahl@dep.state.fl.us]  
**Sent:** Tuesday, February 18, 2014 3:10 PM  
**To:** O'Connor, Paul  
**Cc:** Craig, Kae; DEO Agency Comments  
**Subject:** Lee County 14-2ESR Proposed

To: Paul O'Connor, Planning Division Director

Re: Lee County 14-2ESR– Expedited Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction. Please feel free to contact me with any questions.

Christopher Stahl  
DEP Office of Intergovernmental Programs  
3900 Commonwealth Blvd., MS 47  
Tallahassee, FL 32399-3000  
(850) 245-2169 office

Thank you!  
cjs



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Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

# FLORIDA DEPARTMENT OF EDUCATION



## STATE BOARD OF EDUCATION

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REBECCA FISHMAN LIPSEY

ANDY TUCK

**Pam Stewart**  
Commissioner of Education

February 3, 2014

Mr. Paul O'Connor, AICP  
Lee County Planning Division Director  
P.O. Box 398  
Fort Myers, Florida 33902-0398  
Via E-mail: [oconnops@leegov.com](mailto:oconnops@leegov.com)

Dear Mr. O'Connor:

Re: Lee County 14-2 ESR

Thank you for the opportunity to review the Lee County 14-2 ESR amendment package, which the Florida Department of Education received on January 27, 2014. According to the department's responsibilities under section 163.3184(3), Florida Statutes, I reviewed the amendment considering provisions of chapter 163, part II, F.S., and to determine whether the proposal, if adopted, would have potential to create significant adverse effects on public school facilities.

The proposal would amend Lee Plan to remove provisions that regulate water use permitting in the Lower Tamiami Aquifer and Map 8 in response to a request by the Southwest Florida Water Management District. Because the amendment does not appear to create adverse effects on educational facilities or sites, I offer no comment.

Again, thank you for the opportunity to review the amendment package. If I may be of assistance, please contact me at 850-245-9312 or [Tracy.Suber@fldoe.org](mailto:Tracy.Suber@fldoe.org).

Sincerely,

Tracy D. Suber  
Growth Management and Facilities Policy Liaison

TDS/

cc: Ms. Dawn Huff, Lee County School District  
Mr. Scott Rogers and Ms. Brenda Winningham, DEO/State Land Planning Agency

THOMAS H. INSERRA  
DIRECTOR, OFFICE OF EDUCATIONAL FACILITIES

---

325 W. GAINES STREET • SUITE 1014 • TALLAHASSEE, FLORIDA 32399-0400 • 850-245-0494 • FAX 850-245-9304

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**LEE COUNTY ORDINANCE NO. \_\_\_\_\_**  
**WELLFIELD PROTECTION**  
**(CPA2013-00007)**

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS PERTAINING TO THE WELLFIELD PROTECTION APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT AND MAPS; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendments in accordance with Florida Statutes and the Lee County Administrative Code on December 11, 2013; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendments on January 22, 2014. At that hearing, the Board approved a motion to send, and did later send, proposed amendments pertaining to Wellfield Protection (CPA2013-00007) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the January 22, 2014 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on April 16, 2014, the Board held a public hearing and adopted the proposed amendments to the Lee Plan set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

**SECTION ONE: PURPOSE, INTENT AND SHORT TITLE**

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6,

conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt text and map amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "Wellfield Protection Ordinance (CPA2013-00007)."**

## SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, that removes language in the Plan pertaining to SFWMD permitting authority and updates the Lee Plan Map that identifies Lee County Utility wells and their associated protection zones which identify adjacent lands needed to protect the public water supply. (CPA2013-00007).

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

## SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

## SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

## SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

## SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this

ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_. The vote was as follows:

John E. Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Brian Hamman	_____
Frank Mann	_____

DONE AND ADOPTED this 16<sup>th</sup> day of April 2014.

ATTEST:  
LINDA DOGGETT, CLERK

LEE COUNTY  
BOARD OF COUNTY  
COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Larry Kiker, Chair

DATE: \_\_\_\_\_

Approved as to form by:

\_\_\_\_\_  
Michael D. Jacob  
County Attorney's Office

- Exhibit A: Adopted text amendments (Adopted by BOCC April 16, 2014)
- Exhibit B: Map 13 Irrigation Well Overlay (former)
- Exhibit C1: Lee Plan Map 8 Cones of Influence (former)
- Exhibit C2: Lee Plan Map 8 Wellfield Protection Zones (Adopted by BOCC on April 16, 2014)

## EXHIBIT A

**Note:** Text depicted with underline represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

~~**POLICY 1.7.10:** The Irrigation Well overlay in Bonita Springs (as defined in this plan) is hereby declared a critical area for future potable water supply, based on evidence that withdrawals from the main potable aquifer, the lower Tamiami aquifer, are approaching or exceeding the maximum safe yield. In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in the Irrigation Well overlay may not utilize the main potable water source. For the purposes of this plan, the boundaries of the Irrigation Well overlay are indicated on Map 13 of the Future Land Use Map series. (Also see Policy 54.1.9 for new permit requirements for wells in Lehigh Acres, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map).~~

**POLICY 2.4.2:** All proposed changes to the Future Land Use Map in critical areas for future potable water supply (Bonita Springs as described in Policy 1.7.10; Lehigh Acres as described in Policy 54.1.9; and all land in the Density Reduction/ Groundwater Resource land use category) will be subject to a special review by the staff of Lee County. This review will analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources, and will assess whether the proposed land uses would cause any significant impact on present or future water resources. If the Board of County Commissioners wishes to approve any such changes to the Future Land Use Map, it must make a formal finding that no significant impacts on present or future water resources will result from the change.

**POLICY 54.1.9:** Lehigh Acres (as defined by outer boundaries of its Privately Funded Infrastructure overlay on the Future Land Use Map) is hereby declared a critical area for future potable water supply due to fluctuating water levels in the Sandstone aquifer. In response to this designation, the county will amend current regulations to provide that new wells in Lehigh Acres must be constructed to accommodate submersible pumps. (Also see Policy 1.7.10 for new permit requirements for irrigation wells in Bonita Springs, and Policy 2.4.2 for special requirements for amendments to the Future Land Use Map.)



IRRIGATION WELL OVERLAY

(See Plan Map 13)



**LEGEND**

- Irrigation Well Overlay
- City Limits

Scale: 0 1 2 3 4 Miles

December 2000  
Amended July 2003  
Amended by Ordinance No. 00-22

*GRA 2010-17*

EXHIBIT B

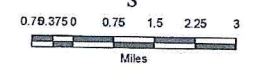


# CONES OF INFLUENCE

## Travel Times

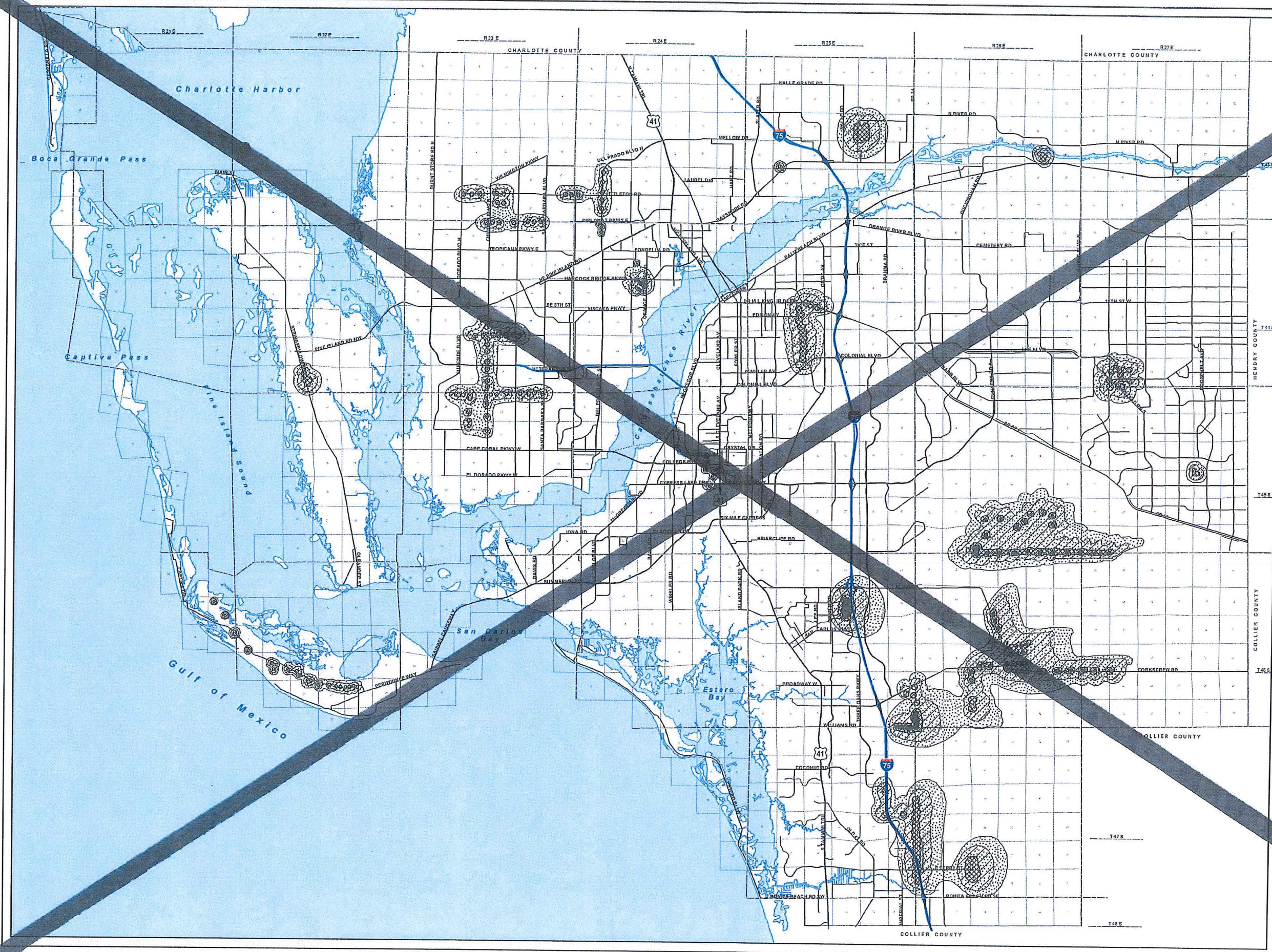
- \* Permitted Wells
- 6-Months
- ▨ 1-Year
- ▧ 5-Years
- ▩ 10-Years

EXHIBIT CI



Map Generated: January 2008  
 City Limits current to date of map generation  
 Last Amended: August 13, 2007  
 Amended by Ordinance No. 07-13

Lee Plan Map 6





# Wellfield Protection Zones

## COMPOSITE ISO-TRAVEL TIME MAP

### Travel Time

- 6-MONTHS
- 1-YEAR
- 5-YEARS
- 10-YEARS
- ASR PROTECTION ZONE
- \* Permitted Well
- City Limits

EXHIBIT C2

**LEE COUNTY**  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING



Map Generated: November 2013  
City Limits current to date of map generation

Last Amended: August 13, 2007  
Amended by Ordinance No. 07-13

**Lee Plan Map 8**

