

# **AGENCY COMMENTS**

**CPA2018-10014**

**LIMEROCK MINING**

**Ron DeSantis**  
GOVERNOR



**Ken Lawson**  
EXECUTIVE DIRECTOR

May 16, 2019

The Honorable Larry Kiker  
Chairman, Lee County  
Board of County Commissioners  
Post Office Box 398  
Fort Myers, Florida 33902-0398

Dear Chairman Kiker:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for Lee County (Amendment No. 19-03ESR) received on April 22, 2019. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the County is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the County. **If the County receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the County that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](http://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](http://www.facebook.com/FLDEO)

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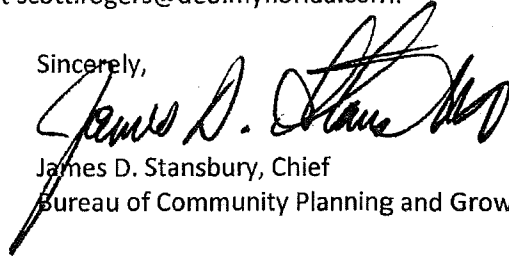
The Honorable Larry Kiker, Chairman

May 16, 2019

Page 2 of 2

If you have any questions concerning this review, please contact Scott Rogers, Planning Analyst, by telephone at (850) 717-8510 or by email at [scott.rogers@deo.myflorida.com](mailto:scott.rogers@deo.myflorida.com).

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is written in a cursive style with a large, sweeping initial "J".

James D. Stansbury, Chief  
Bureau of Community Planning and Growth

JDS/sr

Enclosure(s): Procedures for Adoption

cc: David Loveland, Director, Lee County Department of Community Development  
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 State Land Planning Agency 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:

\_\_\_\_\_ State Land Planning Agency 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 state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

\_\_\_\_\_ List of additional changes made in the adopted amendment that the State Land Planning Agency 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 State Land Planning Agency in response to the comment letter from the State Land Planning Agency.



Jim Boesch  
Mayor  
District Five

May 6, 2019

William Ribble  
Vice Mayor  
District One

Mr. Ray Eubanks  
Bureau of Comprehensive Planning  
Department of Economic Opportunity  
107 E. Madison – MSC 160  
Tallahassee, FL 32399

Howard Levitan  
District Two

Jon McLain  
District Three

Katy Errington  
District Four

Re: DEO Case No. Lee County19-03ESR  
Lee County Comprehensive Plan Amendment CPA 2018-10014, Limerock Mining

Nick Batos  
District Six

Dear Mr. Eubanks:

Jim Wilson  
District Seven

I am writing to convey the profound objection by the Village of Estero Council to the County's proposed Comprehensive Plan Amendment CPA 2018-10014 Limerock Mining, which was transmitted to the DEO, and which was received by the DEO on April 19, 2019. The Village objects to this amendment which would roll back the most critical protections in the Lee Plan pertaining to limerock mining within the Density Reduction/ Groundwater Resource (DR/GR) area of Southeast Lee County.

Steve Sarkozy  
Village Manager

Burt Saunders  
Village Attorney

The proposed amendments would eliminate "Map 14," which defines the acceptable area for limerock mining in the DR/GR. The Lee Plan currently limits rezonings for new and expanded limerock mines to the areas indicated on Map 14; helps to insure that limerock resources in or near existing disturbed areas will be more fully utilized; and precludes the spread of mining impacts into less-disturbed environments until such time as there is a clear necessity to do so and Map 14 is amended accordingly. The proposed amendments would roll back these protections and eliminate the technical basis for Map 14, as well as the regularly updated analysis of demand for limerock in southwest Florida and the limerock supply that has already been authorized. The Lee Plan DR/GR protections were successfully defended by Lee County in a comprehensive plan compliance challenge, DEO-12-029. Lee County now seeks to amend a successful and critical regulatory program that protects the water and other environmental resources of the area and protects the Village and other nearby communities from other adverse impacts of limerock mining.

There are numerous issues that Lee County has downplayed or ignored in promulgating these plan amendments. The entire DR/GR area, and far beyond, would be affected by the abandonment of Map 14 and related amendments regarding limerock mining. Here is a brief summary of critical issues:

1. Limerock mining is a high-disturbance activity whose effects on the surrounding area can never be completely mitigated. Mining permanently disrupts surface water flows into historic depressions, sloughs, and creeks. The natural cleansing of surface water that occurs during slow overland flows is reduced when surface water is channeled into engineered ditches and mine pits.
2. DR/GR land forms the headwaters of much of the Corkscrew Swamp and the Estero Bay watersheds. Surface water and groundwater from the DR/GR ultimately flows into the Flint Pen Strand, Estero River, Halfway Creek, Spring Creek, and the Imperial River, and then into the estuaries including Estero Bay which is the State of Florida's first aquatic preserve. Reduced water quality in the DR/GR has cascading impacts on estuaries in Lee and Collier Counties.
3. Large-scale mining permanently lowers groundwater levels within the mined land and on nearby properties. A lowered water table harms or destroys wetlands and negatively affects most agriculture.
4. Unlike the reversible nature of agricultural drainage, mine pits will lower groundwater levels indefinitely. This effect increases as the size of mine pits increase, especially where the land surface slopes even slightly.
5. Although DR/GR land appears flat, some of the sharpest drops in elevation in Lee County occur in the east-central portion where elevations drop off quickly into the Corkscrew Swamp. These elevation drops make land particularly susceptible to the effects of man-made drainage from agriculture (which is reversible) and from mining pits (which is irreversible).
6. Altered surface water and groundwater flows negatively affect many natural features including the Flint Pen Strand, which flows southward from Corkscrew Road, and a continuous band of preserved lands to the northwest of the Flint Pen Strand. Funding for these acquisitions came from Lee County and the South Florida Water Management District and from mitigation purchases for the airport expansion and for Florida Gulf Coast University. Two commercial mitigation banks have also been established. The elimination of Map 14 would directly counteract Lee County's ambitious long-term restoration strategy for the entire DR/GR.
7. The DR/GR supports a wide variety of native flora and fauna. The most diverse areas are in the least disturbed and most naturally continuous areas. Panthers in particular require large hunting areas to survive; Map 14 protects much of the primary panther zone in the DR/GR from large-scale mining.
8. Nearby large-scale mining is inimical to every kind of human habitation. Although residential development is limited in this area, several rural communities have been in

place long before mining, and Lee County has recently approved several large new residential developments.

9. Map 14 minimizes the impacts of mining on valuable watersheds, residential areas, and the road system by concentrating mining activity in the traditional Alico mining corridor. The elimination of Map 14 will spread mining into more pristine environments and will greatly increase truck traffic on Corkscrew Road.
10. The limestone whose pores store some of the water that supplies public wellfields is the very material that is physically removed during mining. This removal creates an open window into the shallow aquifer. After mining, contaminants that enter the pit can move very quickly through the open water instead of moving very slowly through the original limestone; natural slow movement allows contaminants to be filtered out, die off, or be slowed sufficiently to minimize their danger to public water supply. A majority of potable water for Lee County Utilities is withdrawn from wells in this area.
11. The elimination of Map 14 works directly against many other stated goals, objectives, and policies in the Lee Plan regarding protection of natural resources and residential communities. This kind of internal inconsistency within a comprehensive plan is not allowed by state law (Sec. 163.3177(2)). The importance of Map 14 has been litigated; the final order upholding the Lee Plan limerock mining provisions concluded:  
*“The [2010 Lee] Plan Amendments reflect the balance struck by the County between mining and other competing land uses in the DR/GR. Goal 10 and Goal 33 both indicate that the balance is to be achieved by designating sufficient mining lands to meet the regional demand through 2030. Because it is found that this objective is achieved through Map 14 and Table 1(b), the Plan Amendments are consistent with Goal 10.”*  
(Cemex Construction Materials et. al v. Lee County, DOAH Case No. 10-2988GM, par. 71)
12. The proposed amendments do not provide data or analyses that challenge or even acknowledge the voluminous technical and planning studies and two years of public involvement that were undertaken and considered before Lee County adopted Map 14 and the policies under Goal 33 in 2010. See Sec. 163.3181(1-2) and Sec. 163.3184(3)(b)1.
13. As to limerock mining, these critical provisions of the Lee Plan are the “meaningful and predictable standards for the use and development of land” as required by Sec. 163.3177(1).

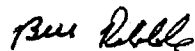
Further responses to the Lee County proposed amendment are provided in the attached document “Limerock Mining in Southeast Lee County”, prepared by Village Consultant William Spikowski to counter the “Questions and Answers” produced by Lee



County in response to the public outcry against the proposed amendment. A "Peer Review" report is also attached for additional information.

The Village is directly affected by development in the DR/GR, and without adequate protections in the Lee Plan Village residents are threatened by detrimental traffic and safety impacts, as well as environmental degradation, and multiple other negative impacts. The Village Council and representatives of other cities in Lee County attended the County transmittal hearing where hours of public testimony were provided to the County Commission. Adoption of this comprehensive plan amendment will preclude the opportunity for meaningful public input regarding development in the DR/GR in the future. We urge the DEO and the reviewing agencies, copied with this letter, to critically review the proposed Lee County Comprehensive Plan Amendment and to object to this ill-advised and dangerous rollback of the current Lee Plan's protection of important state and regional resources and facilities.

Respectfully,



Mayor Bill Ribble  
Village of Estero

Attachments: Limerock Mining in Southeast Lee County  
Peer Review

Cc: Department of Agriculture and Consumer Services  
Department of Education  
Department of Environmental Protection  
Department of State  
Florida Fish and Wildlife Conservation Commission  
Florida Department of Transportation  
Southwest Florida Regional Planning Council  
South Florida Water Management District  
Lee County Planning

## Miller, Janet

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**From:** Dunn, Brandon  
**Sent:** Monday, May 06, 2019 3:45 PM  
**To:** Rozdolski, Mikki; Miller, Janet  
**Subject:** FW: Lee County 19-3ESR (CPA2018-10014 Goal 33/Limerock Mining)

Please see correspondence below for CPA2018-10014.

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**From:** Hight, Jason [<mailto:Jason.Hight@MyFWC.com>]  
**Sent:** Monday, May 06, 2019 3:42 PM  
**To:** Dunn, Brandon  
**Cc:** [DCPexternalagencycomments@deo.myflorida.com](mailto:DCPexternalagencycomments@deo.myflorida.com); Wallace, Traci; Keltner, James  
**Subject:** [EXTERNAL] Lee County 19-3ESR (CPA2018-10014 Goal 33/Limerock Mining)

Dear Mr. Dunn:

Florida Fish and Wildlife Conservation Commission (FWC) staff has reviewed the proposed comprehensive plan amendment in accordance with Chapter 163.3184(3), Florida Statutes. We have no comments, recommendations, or objections related to listed species and their habitat or other fish and wildlife resources to offer on this amendment.

We appreciate the opportunity to review the proposed project and look forward to working with the applicant throughout the permitting process. If you need any further assistance, please do not hesitate to contact our office by email at [FWCConservationPlanningServices@MyFWC.com](mailto:FWCConservationPlanningServices@MyFWC.com). If you have specific technical questions, please contact Jim Keltner at (239) 332-6972 x9209 or by email at [James.Keltner@MyFWC.com](mailto:James.Keltner@MyFWC.com).

Thank you,

Jason Hight  
Biological Administrator II  
Office of Conservation Planning Services  
Division of Habitat and Species Conservation  
620 S. Meridian Street, MS 5B5  
Tallahassee, FL 32399-1600  
(850) 228-2055

Lee County 19-3ESR\_38815

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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.

**Miller, Janet**

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**From:** Dunn, Brandon  
**Sent:** Friday, May 17, 2019 3:47 PM  
**To:** Miller, Janet  
**Cc:** Jacob, Michael; Rozdolski, Mikki  
**Subject:** FW: Lee County, DEO # 19-3ESR Comments on Proposed Comprehensive Plan

Please see correspondence from SFWMD for CPA2018-10014.

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**From:** Oblaczynski, Deborah [<mailto:doblaczy@sfwmd.gov>]  
**Sent:** Friday, May 17, 2019 3:46 PM  
**To:** Rozdolski, Mikki  
**Cc:** Dunn, Brandon; Barbara Powell ([barbara.powell@deo.myflorida.com](mailto:barbara.powell@deo.myflorida.com)); ext-Wuerstle, Margaret (swfrpc.org); 'DCPexternalagencycomments@deo.myflorida.com'  
**Subject:** Lee County, DEO # 19-3ESR Comments on Proposed Comprehensive Plan

Dear Ms. Rozdolski:

The South Florida Water Management District (District) has completed its review of the proposed amendment package from Lee County (County). The amendment package includes map and text amendments regarding the Future Limerock Mining Overlay and does not include any proposed mining activities. After an extensive review of the proposed revisions, the District has determined the changes do not appear to adversely impact the water resources within the District. The District has no comments on the proposed amendment package; however, the District offers the following technical guidance:

- The District acknowledges that future mining development and activity is not included in this comprehensive plan amendment. This review does not alleviate the need for District permits if future mining activities are proposed.

The District's purview is ensuring that developments and projects do not interfere or cause impacts to wetlands and other surface waters, regional water supplies, and flood protection and floodplain management. The District offers its technical assistance to the County in developing sound, sustainable solutions to meet the County's future water supply needs and to protect the region's water resources. My contact information is below. Please forward a copy of the adopted amendments to the District.

Sincerely,

Deb Oblaczynski  
Policy & Planning Analyst  
Water Supply Implementation Unit  
South Florida Water Management District  
3301 Gun Club Road  
West Palm Beach, FL 33406  
(561) 682-2544 or email: [doblaczy@sfwmd.gov](mailto:doblaczy@sfwmd.gov)

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**Miller, Janet**

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**From:** Dunn, Brandon  
**Sent:** Tuesday, May 21, 2019 7:37 AM  
**To:** Miller, Janet  
**Cc:** Rozdolski, Mikki; Jacob, Michael  
**Subject:** FW: Lee County 19-3ESR Proposed

Please see correspondence for CPA2018-10014 from FDEP.

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**From:** Plan\_Review [<mailto:Plan.Review@dep.state.fl.us>]  
**Sent:** Monday, May 20, 2019 4:49 PM  
**To:** Dunn, Brandon; [DCPexternalagencycomments@deo.myflorida.com](mailto:DCPexternalagencycomments@deo.myflorida.com)  
**Cc:** Plan\_Review  
**Subject:** Lee County 19-3ESR Proposed

To: Brandon Dunn, Principal Planner

Re: Lee County 19-3ESR – Expedited State 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 submit all future amendments by email to [Plan.Review@FloridaDEP.gov](mailto:Plan.Review@FloridaDEP.gov). If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.



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*Florida Department of Transportation*

RON DESANTIS  
GOVERNOR

10041 Daniels Parkway  
Fort Myers, FL 33913

KEVIN J. THIBAUT, P.E.  
SECRETARY

May 22, 2019

Brandon Dunn  
Principal Planner  
Lee County Planning Section  
P.O. Box 398  
Fort Myers, Florida 33902-0398

**RE: Lee County 19-03ESR Proposed Comprehensive Plan Amendment (CPA), Expedited State Review Process – FDOT Review Letter**

Dear Mr. Dunn:

The Florida Department of Transportation (FDOT), District One, has reviewed the Lee County 19-03ESR Proposed Comprehensive Plan Amendment. The proposed CPA package was transmitted under the Expedited State Review process by the Board of County Commissioners, in accordance with the requirements of Florida Statutes Chapter 163.

The proposed CPA 2018-10014 (Goal 33/Limerock Mining) is a text amendment to the Lee Plan (Lee County Comprehensive Plan). This amendment proposes to change the Future Land Use (FLU) Element, Transportation Element, Conservation and Coastal Management Element, Administration Element, Table 1 (b), and Map 14 (Future Limerock Mining Overlay) components of the Lee Plan.

**FDOT Review:**

The purpose of the Lee County 19-03ESR proposed CPA is to remove conflicting provisions, reduce redundancies by removing regulatory provisions duplicative of the Land Development Code, and eliminate potential legal challenges caused by ambiguous or vague language. No traffic analysis was included in the amendment because no specific limerock mining operation is being proposed.

Any mining operation should identify haul routes and evaluate the potential to contribute towards adverse impacts on the entire roadway network which may include State and/or Strategic Intermodal Systems (SIS) facilities. FDOT offers the following technical assistance recommendations for the County to consider when reviewing a specific mining operation application:

**FDOT Technical Assistance Recommendation #1:**

As the coastal communities west of I-75 build-out, new residential and mixed-use development is spreading east of I-75 at a rapid pace. Many of these new developments are beginning to encroach within areas populated by existing mines. Most of these areas are currently served by a limited capacity roadway network resulting in heavy freight vehicles (dump trucks) and automobiles sharing lanes. The blending of dump trucks and local trips may create congestion and operational inefficiencies within the roadway network.

There are potential improvements for consideration including but not limited to: 1) Designing connectivity into/along multiple developments to reduce excessive external trips onto arterials thereby reducing the blending of dump truck and automobile traffic; 2) Adding capacity to the roadway network; 3) Transportation Systems Management and Operations (TSMO) solutions such as adaptive signal control or extending clearance timings; 4) Requiring more than one primary ingress/egress route for new developments.

**FDOT Technical Assistance Recommendation #2:**

Any mine operation connecting to State and/or SIS facilities is required to comply with any applicable access management rules/regulations such as Access Management (Chapter 14-97) guidelines. Changes from an existing land use to another land use require a modification to the existing driveway permit from FDOT. The applicant should contact FDOT to have their permit reviewed.

FDOT staff are immediately available to meet with you to discuss our comments and recommendations. If you have any questions or need to discuss these comments further, please contact me at (239) 225-1981 or [sarah.catala@dot.state.fl.us](mailto:sarah.catala@dot.state.fl.us).

Sincerely,



Sarah Catala  
SIS/Growth Management Coordinator  
FDOT District One

*Attachment*

cc: D. Ray Eubanks, Florida Department of Economic Opportunity  
Mikki Rozdolski, Lee County  
Margaret A. Wuerstle, Southwest Florida Regional Planning Council



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## COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS

**Local Government:** Lee County  
**DEO Amendment #:** 19-03ESR  
**Today's Date:** 05/22/2019

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### FUTURE LAND USE MAP AMMENDMENT

**Elements:** Future Land Use Element  
Transportation Element  
Conservation and Coastal Management Element  
Administration Element

**Rule Reference:** Chapter 163, Florida Statutes

#### Background:

CPA 2018-10014 (Goal 33/Limerock Mining) is a proposed text amendment to the Lee Plan, the Lee County Comprehensive Plan. This amendment proposed to change the Future Land Use (FLU) Element, Transportation Element, Conservation and Coastal Management Element, Administration Element, and Map 14 (Future Limerock Mining Overlay) components of the Lee Plan. The purpose of these amendments is to remove conflicting provisions, reduce redundancies by removing regulatory provisions duplicative of the Land Development Code, and eliminate potential legal challenges caused by ambiguous or vague language.

#### SUMMARY OF CHANGES

##### Delete the requirement for a Mining Study:

- Mining is the only use in the Lee Plan that requires a market analysis, demonstrating regional limerock demand, would not be required; which is consistent with other uses/markets.
- The County would no longer be required to project and supply regional limerock demand and expand Map 14 and Table 1 (b), accordingly.
- Table 1 (b) is not tied to Map 14 and is addressed at time of Mine Development Order (MDO) after the Lee Plan amendment and rezoning processes.

##### Delete the Future Limerock Mining Overlay (Map 14):

- Applicants, for new limerock mining operations, would no longer be required to be identified as a future limerock mining area.
- Map 14 allows impacts to wetlands, groundwater and surface water which is contrary to the overall Lee Plan.
- Chapter 12 of the Land Development Code (LDC) is not being amended, and provisions located within Objective 33.2 are not being softened; protection of natural resources is not lessening nor is the standard of evaluation for mining operations.
- Including property on Map 14 results in no additional protections for nearby wildlife habitat, water resources, and compatibility with nearby uses.

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**FDOT Contact:** Sarah Catala  
FDOT District 1  
Community Planning Coordinator  
239-225-1981  
E-mail: [Sarah.Catala@dot.state.fl.us](mailto:Sarah.Catala@dot.state.fl.us)

**Reviewed by:** Todd Davis, P.E.  
Vanasse Hangen Brustlin, Inc.  
407-839-4006  
[tsdavis@vhb.com](mailto:tsdavis@vhb.com)

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## COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS

**Local Government:** Lee County  
**DEO Amendment #:** 19-03ESR  
**Today's Date:** 05/22/2019

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### Remove or Correct Ambiguous Language:

- Minimize the potential for legal liability over ambiguous language, which could result in litigation and Chapter 163 challenges.
- Amend provisions to eliminate paradoxes and conflicting provisions; clarify intent in a clear and concise manner to bring the policies into compliance with Section 163.3177(1) by establishing meaningful and predicable standards.

The following details are associated with the specific text changes within each element of the Lee Plan:

### FLU Element

- Revise to remove references to Map 14 through FLU Element which is being removed from the Lee Plan.
- Delete duplicative and/or redundant policies from the FLU Element.
- Make minor language clarifications throughout the FLU Element.
- Relocate policies throughout the FLU Element for consistency.
- Renumbered policies to account for removed policies as part of this proposed amendment.
- Delete language from Policy 1.7.6 referencing dates and Table 1(b) references to limerock mining.
- Revise the language in Objective 10.1 to reflect Lee County's desire to minimize adverse effects of natural resource extraction.
- Add Policy 10.1.6 to maintain land development regulations for limerock mines.
- Add Policy 10.1.7 to address wetland impacts that were previously approved.
- Revise Policy 10.1.3 (proposed 10.2.8) to clarify and remove language that belongs in the Land Development Code (LDC) regarding natural resource extraction permit reclamation plans.
- Add Policy 10.2.9 which increases public input regarding Mining Excavation Planned Development (MEPD) rezoning applications.
- Clarify intent of Goal 33, to protect Southeast Lee County's natural resources, by rewriting the goal without vague and ambiguous terms.
- Delete Objective 33.1 and associated policies due to vague and ambiguous wording.
- Update the language of Policy 33.2.1 (proposed 33.1.1) to remove dates and delete redundant language regarding protection and restoration of Lee County ecosystems.
- Clarify language in Policy 33.2.2 (proposed 33.1.2) to update conservation tiers and applicable density incentives.
- Streamline Policy 33.2.3 (proposed 33.1.3) regarding Tier 1-8 conservation areas and the applicable development incentives that exist or may exist to improve water resources and natural ecosystems.

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FDOT Contact: Sarah Catala  
FDOT District 1  
Community Planning Coordinator  
239-225-1981  
E-mail: [Sarah.Catala@dot.state.fl.us](mailto:Sarah.Catala@dot.state.fl.us)

Reviewed by: Todd Davis, P.E.  
Vanasse Hangen Brustlin, Inc.  
407-839-4006  
[tsdavis@vhb.com](mailto:tsdavis@vhb.com)



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**COMPREHENSIVE PLAN AMENDMENT PROPOSED REVIEW COMMENTS**

**Local Government:** Lee County  
**DEO Amendment #:** 19-03ESR  
**Today's Date:** 05/22/2019

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- Add Policy 33.1.8 based on language from removed Policy 9.1.7 regarding existing agricultural lands. The proposed policy adds language of Lee County's support for a "comprehensive and coordinated effort to manage water resources" within Southeast Lee County.

**Transportation Element**

- The Lee County Port Authority requested Policy 47.2.7 to address compatibility between mining operations and air commerce. This policy prevents mining operations unless "it is demonstrated that no adverse vibration, noise, air, and water quality impacts" will occur on existing and planned airport facilities, capacities, and operations.

**Conservation and Coastal Management Element**

- Revise to remove references to Map 14 which is being removed from the Lee Plan.
- Add "General Interchange" to FLU categories listed in Policy 124.1.1 of this element which allows residential density transfers from wetlands to upland areas. This ensures consistency with Table 1(a) which was amended by Ordinance #16-02.

**Administration Element**

- Relocate FLU Element Policy 1.4.5 to "Standards for Administrative Interpretations" section of this element.

**Map 14**

- The map is to be removed from the document.

**TECHNICAL ASSISTANCE:**

Based on our review, the Lee County 19-03ESR proposed CPA has the potential to contribute towards adverse impacts on State and/or Strategic Intermodal Systems (SIS) facilities. FDOT encourages the County to consider the technical assistance comments provided within the cover letter, which aims to reduce the potential for blended traffic to create congestion and ensure possible access management considerations are taken into account.

The Department respectfully requests a copy of the adopted plan. Please provide the adopted plan within two weeks of adoption, in order to assist in facilitating review within the required 30-day time frame from adoption, as required by Statutes (Expedited State Review Amendment Process Section 163.3184(3) and (5), Florida Statutes).

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FDOT Contact: Sarah Catala  
FDOT District 1  
Community Planning Coordinator  
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E-mail: [Sarah.Catala@dot.state.fl.us](mailto:Sarah.Catala@dot.state.fl.us)

Reviewed by: Todd Davis, P.E.  
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407-839-4006  
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
COMMISSIONER NICOLE "NIKKI" FRIED

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May 29, 2019

VIA EMAIL (bdunn@leegov.com)

Mr. Brandon Dunn, Principal Planner  
Lee County Planning Section  
P.O. Box 398  
Fort Myers, Florida 33902

Re: DACS Docket # --20190422-59  
Lee County CPA2018-10014 Goal 33/Limerock Mining  
Submission dated April 23, 2019

Dear Mr. Dunn:

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on April 22, 2019 and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes, to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.

If we may be of further assistance, please do not hesitate to contact me at 850-410-2282.

Sincerely,

Gail Lolley  
Sr. Management Analyst II  
Office of Policy and Budget

cc: Florida Department of Economic Opportunity  
(SLPA #: Lee County 19-03ESR)