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December 14, 2018

Lee County Local Planning Agency

*Sent via email*

Mr. Dennis Church

Mr. Frank Feeney

Mr. James Ink

Ms. Kristine Smale

Mr. Stan Stouder

Mr. Justin Thibaut

Mr. Henry Zuba

RE: CPA2018-10014: Goal 33/Limerock Mining

Dear LPA Members:

On behalf of our more than 7,000 supporting families, the Conservancy of Southwest Florida appreciates the opportunity to comment on CPI2018-10014 which deletes Map 14 and amends policies throughout Lee County's comprehensive plan (Lee Plan) relating to lime rock mining. We have read, analyzed and considered the information provided by Lee County on these significant changes. We were unaware that deletion of Map 14 was even being contemplated and were surprised at the extensive changes to the mining regulations as well as changes being made to policies which govern the Southeast Lee County Planning area which includes the Density Reduction Groundwater Resource (DR/GR) area.

#### **Brief History of the DR/GR and Creation of Map 14**

The DR/GR is an ecologically essential area in Southeastern Lee County, providing a mosaic of upland and wetland habitat that supports wildlife, including listed species such as the endangered Florida panther, and serving as the source of a significant amount of Lee County's drinking water supply.<sup>1</sup> Planning efforts to balance competing land uses in the DR/GR date back to the 1990s, when it was recognized that lime rock mining is not compatible to conservation of land, water, wildlife and adjacent neighborhoods.

In 2007, Lee County was inundated with applications for lime rock mining in the DR/GR. In response, Lee County Commissioners decided to assess the various land uses allowed in the DR/GR and develop a long-term plan. Experts and the public participated in a series of meetings that took place over a two

<sup>1</sup> Prospects for Southeast Lee County (2008) estimates that as much as 70% of potable water used by Lee County Utilities comes from wells located in the DR/GR. Available from the Lee County website at <https://www.leegov.com/dcd/Documents/Planning/DRGR/FinalReport/CH1.pdf> last visited 12/14/2018



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and a half year period. One result from this process is Map 14 and its supporting policies. Map 14 identifies where lime rock mining can occur in Lee County. Map 14 and its supporting policies were adopted in 2010, challenged by mining interests, and upheld by a judge in 2012.

### **Proposed Changes**

While we note that Lee County should eliminate potential liabilities to the extent practicable and reduce conflicts between provisions in the Lee Plan in order to provide clarity and focus when enforcing the Lee Plan, we do not agree with some of the interpretations that led Lee County to the conclusion that Map 14 should be eliminated or most of the proposed language changes and deletions. We remind Lee County decision makers that the creation of Map 14 and the accompanying goals, policies, and objectives represent years of negotiations and lawsuits. This language and Map 14 were the culmination of these efforts and compromises between all parties and stakeholders.

Many of the “ambiguities” identified by staff in their report have already been addressed and litigated when Map 14 was created and codified in 2010 via the Department of Administration Hearings (DOAH) Case 10-2988GM. Many of the issues raised in the staff report were discussed and decided by this case.<sup>2</sup> We note for the record that we were a party to that case.

Where applicable, we have provided alternate language. However, this is an incredibly intricate proposal and has far reaching implications. We are recommending that you ask staff to hold a workshop with interested parties and stakeholders early next year, and bring this item back to the LPA in February or March. To our knowledge and based on the information presented in the staff report, there is no reason to make these changes. We believe that additional public dialogue to identified concerns, deficiencies and recommended solutions must be done before amendments are proposed. Such solutions should be evaluated based on natural resource and neighborhood compatibility.

We remind you that Objective 17.3 of the Lee Plan specifically states that there should be “opportunities for public input as part of the comprehensive plan and land development code amendment process”. If this were a privately initiated amendment, pursuant to Policy 17.3.2, one public information meeting would have been required. We do not think that Lee County should hold itself to a lesser standard in terms of public outreach than what is required for private amendments. There are many people and businesses in southeast Lee County who will be impacted by these proposed changes along with many interested stakeholders.

Page five of the staff report states that “[e]very seven years Lee County is obligated to update the inventory of existing mining operations and analyze the supply of lime rock material in relation to the projected demand of lime rock both locally and regionally.” The staff report states this as though it is unusual to engage in this type of review. It is not. It is expected that the entire comprehensive plan will be reviewed for appropriateness every seven years.

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<sup>2</sup> DOAH Case 10-2988 paragraphs 75-77 discuss the term clear necessity and explain the meaning to dispel confusion. Paragraph 79 addresses the terms “significant adverse impact”, “adaptive resource management” and “corrective measures” and provides guidance on use and definition of these terms.

Florida Statutes Section 163.3191(1) states that “[a]t least once every 7 years, each local government shall evaluate its comprehensive plan to determine if plan amendments are necessary....” Florida Statutes further provide in Section 163.3191(3) that “[l]ocal governments are encouraged to comprehensively evaluate and, as necessary, update comprehensive plans to reflect changes in local conditions.” This means that the seven year review is not an arbitrary number and this requirement for Lee County to review the entire comprehensive plan, including mining regulations, does not disappear because of text amendments to the Lee Comprehensive Plan.

Section 163.3177(1), Florida Statutes (F.S.), sets forth the required and optional elements of comprehensive plans stating that the comprehensive plan “shall provide the principles, standards and strategies for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area that reflects community commitments to implement the plan and its elements.” We contend that the Lee Plan language as it exists and the inclusion of Map 14 and the extra care provided to an industry with inherent hazards such as lime rock mining and natural resource extraction is a manifestation of these standards and embodies the spirit, intent and actual standards as set forth in the Florida Statutes. Removal of these standards without replacing them with carefully thought out standards is a violation of Florida Statutes.

Section 163.3177(1), F.S., continues by stating that the comprehensive plan “shall establish meaningful and predictable standards for the use and development of land.” The standards proposed for deletion provide these meaningful and predictable standards; the replacement language, where provided, does not.

Section 163.3177(1)(f), F.S., provides that “[a]ll mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government that may include, but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment”. We note that Florida Statutes are very clear in this section that local governments are not required to create their own data.<sup>3</sup>

Page five of the staff report states that if a deficit to lime rock aggregate is identified during this review that “it will be the County’s responsibility to add an area to meet the demand”. This is simply not true. We disagree that the language creating Map 14 puts the onus on Lee County to add areas to meet regional demand for lime rock material as presented on page 5 of the staff report. When Map 14 was created in 2010, it was predicated on mines from the DR/GR producing approximately 80% of the lime rock demand for a seven county area in Southwest Florida.<sup>4</sup> This is evidence presented to and accepted by a judge that Map 14 was never intended to be the one sole resource to meet regional demand but that Lee County is one of many sources for lime rock aggregate in Southwest Florida. To state that Lee County has ever been the sole producer or would be required to be the sole producer of lime rock aggregate is misleading and incorrect. It has always – including the years since the adoption of Map 14 –

<sup>3</sup> Section 163.3177(1)(f)2. Original data collection by local governments is not required.

<sup>4</sup> DOAH Case 10-2988GM paragraphs 53 – 55.

been recognized that lime rock aggregate is a regional resource and that many counties in Southwest Florida have the resources and ability to provide for regional demand.

Lee County is responsible for using and regulating the resources of Lee County for the benefit of Lee County residents and making decisions that are in the best interest of the public. The language used in the staff report indicates that the existence of Map 14 means that lime rock mining will become more important than balancing the needs of the public and community in Lee County. We do not believe this to be the case, and stress that decision makers in Lee County need to approach this decision with the underlying understanding that Lee County's first priority and responsibility is to Lee County's own citizens and the existence of Map 14 doesn't change or alter this. No outside entity can "force" Lee County to mine or approve mining or expand mining.

In 2012, DOAH Case 10-2988 stated clearly that Florida Statutes do not require local governments to designate sufficient land to regional needs.<sup>5</sup> This has not changed. Lee County is not required by any outside force or act to produce any amount of lime rock aggregate.

We disagree that the policies creating Map 14 and the existing regulations constitute regulating a single market as stated on page 6 of the staff report., What the existing language requires Lee County to do is acknowledge at every appropriate occasion – i.e. when a mine outside of Map 14 is proposed – is that mining operations are not compatible with most other uses and have a detrimental impact on natural resources as well as severe impacts to surrounding properties. There are few other uses that we can think of that are incompatible and destructive in the same way that natural resource extraction is. For those reasons, it makes sense that there would be – and should continue to be – heightened standards for expansion of Map 14 and any new natural resource extraction operations.

We note for the record that Florida Statutes require Lee County to designate the extent of various land uses throughout Lee County<sup>6</sup> and that "every future land use designation of a future land use map creates a cap on the land use because there cannot be an expansion of the use without a comprehensive plan amendment".<sup>7</sup> Therefore, it could be said that Lee County regulates all land uses or markets including commercial and residential by providing a future land use map as required by Florida Statutes. We reject the argument that this is a case where a certain activity or market is being singled out; it is not.

We have stated at several public hearings that the way staff has interpreted the existing language is problematic and that natural resource extraction, specifically lime rock mining, should be looked at and considered on a regional basis not as the sole responsibility of Lee County. Because of the intrusive and destructive nature of natural resource extraction, as well as the limiting nature of where these mines can be located, we believe and have supported the interpretation that Lee County is one of several places that could provide these resources. Lee County decision makers must weigh the opportunities that come with approving a new natural resource extraction with the costs to traffic, neighbors, and the

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<sup>5</sup> DOAH Case 10-2988, paragraphs 113- 114

<sup>6</sup> Section 163.3177(6)(a)1

<sup>7</sup> DOAH Case 10-2988 paragraph 115



environment. To that end, we welcome changes in the language of the Lee Plan that would clarify that existence of a resource does not provide a right or imperative to mine that resource and that Lee County is one of several counties in the region that can provide necessary resources for building projects.

As far as not including a specific methodology as questioned on page six of the staff report, it is our understanding the reason for not including a specific methodology is because science is always advancing, and thus, ways to find and measure resources also expands and changes. It does not make sense to memorialize a specific methodology in the Lee Plan when we know that science and technology are constantly advancing. New and better ways to locate natural resources, as well as measure the effects of natural resource extraction, are constantly being developed. While this may not answer the specific questions presented by staff, the advances in science as well as the requirements by Florida Statutes to base comprehensive plan amendments on data available at the time of the amendment<sup>8</sup> should provide enough clarity for staff to move forward.

While a market analysis in and of itself “does not prevent an over allocation of mining or protection of natural resources”<sup>9</sup>, a market analysis is a useful tool in helping decision makers balance the competing need and goals between natural resource extraction and protection of natural resources and residential uses.<sup>10</sup> To our knowledge, Waldrop Engineering did not have a problem creating a market analysis in 2016. Stuart and Associates did not have a problem creating a market analysis in 2018. The greatest obstacle to creating a market analysis is that much of the information needed is “proprietary and unavailable to the public”.<sup>11</sup> This means that if properties wish to be added to Map 14, proprietary information can be appropriately shared with Lee County. We do not think Lee County should require less information about this important and destructive activity as decision makers balance needs of all Lee County residents and stakeholders.

On page eight of the staff report, an “ominous scenario” is referenced. This scenario is created by the limited interpretation being presented, not by the language in the Lee Plan itself or by the existence of Map 14. We agree that land in Southeast Lee County is a finite resource. We disagree that land with adequate extractable lime rock is more finite than land in Southeast Lee County. There is no other place Lee County can turn to for replacing the ecological and hydrological benefits provided by the DR/GR in southeast Lee County. There are many places outside of southeast Lee County that have the potential for lime rock mining. The priority of Lee County should not be to provide the most lime rock in the region; lime rock is found many places. The priority of Lee County should be to protect the DR/GR and utilize the resources of Lee County in the best way possible for the citizens of Lee County and protection of the natural resources of Lee County, which are infinitely more finite than lime rock.

Page nine of the staff report indicates that the Lee Plan should only include goals, objectives, and policies that create implementable standards and measures. We disagree. The Lee Plan also needs to contain information that provides context for its goals, objectives, and standards to eliminate confusion

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<sup>8</sup> Section 163.3177(1)(f), Florida Statutes

<sup>9</sup> Lee County LPA staff report for CPA2018-10014 dated December 7, 2018, page 6 of 13

<sup>10</sup> DOAH case 10-2988 paragraphs 31-33

<sup>11</sup> DOAH case 10-2988 paragraph 44

and help guide decision makers. Providing context to discern intent is valuable. For example, the staff report states that the first sentence of Policy 33.1.1, "Limerock mining is a high disturbance activity whose effects on the surrounding area cannot be completely mitigated", is unnecessary because it "is nothing more than a description". This description needs to remain in the Lee Plan as this particular description provides useful context when making decisions about applications.

It is too easy for decision makers and the public to lose sight of some of the facts, particularly about an activity as destructive as lime rock mining. This sentence serves a purpose. It recognizes that this destructive practice of natural resource extraction cannot be fully mitigated for and that there will be, in spite of any and all efforts, impacts and effects on surrounding properties. People who own those surrounding properties deserve this sentence to remain. Should they come before the Board of County Commissioners in a plea to protect their property values and rights, there is this acknowledgement that natural resource extraction, specifically lime rock mining, is so destructive that its effects cannot be fully mitigated. This is a very necessary sentence and fact to retain in the Lee Plan.

Page 10 of the staff reports states "[t]he requirement of new and expanded limerock mining operations being identified on Map 14 has become a prerequisite to the Mine Excavation Planned Development (MEPD) application process." We agree with this statement. This was not an unforeseen consequence. Policy 33.1.1 includes the phrase "and Map 14 is amended accordingly". One of the intents of Map 14 is to ensure that new mines are not approved beyond that which is necessary for regional demand. The rezoning process in Lee County doesn't allow citizens the right to petition their elected officials about proposed projects. The comprehensive planning process does allow citizens and stakeholders to petition elected officials about specific projects and changes to the comprehensive plan. We believe that it is important for citizens and stakeholders to have at least one forum that allows them to petition elected officials directly for new natural resource extraction operations. Deletion of Map 14 will remove the ability for citizens and stakeholders to directly contact commissioners about proposed natural resource extraction projects.

Page 11 of the staff report begins with the statement that "[d]eleting the Future Limerock Mining Overlay (Map 14) along with the provisions as identified in Attachment 1 will not affect the current lime rock mining standards, regulations, and criterion." This is a true statement. However, this does not mean that Map 14 and the existing provisions serve no purpose. They serve a very important purpose. These regulations helped create the plans that existing mines must follow. There will be more applications for mines. Map 14 and the existing provisions must remain so that all new and existing applications are held to the same or similar standards that balance the need for mines with the inherent incompatibility with mining and most other land uses.

The bottom of page 11 states that "limerock operations have taken advantage" of a specific exemption in Policy 114.1.1 and "have impacted wetlands". The next sentence states that without Map 14, "new limerock mining operations would be required to be consistent with the Wetlands future land use category". If there has been an unintended consequence of allowing wetlands to be more severely impacted and degraded due to policies, then new policies need to be crafted, adopted and enforced by Lee County. However, to suggest that Map 14 created this exemption or caused private developers to

exploit and find a way to increase their profits by negatively impacting wetlands is simply not true. Staff can fix any policy loopholes without deleting the overlay.

### Conclusion

The DOAH judge determined that "[t]he 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 regional demand...."<sup>12</sup> Lee County staff is now proposing changes that remove the requirement for balancing competing goals and needs in Lee County and downplaying the inherent destructive nature of natural resource extraction.

Map 14 has been one of the few successful ways the Lee County has protected and managed competing and incompatible interests and uses in the DR/GR. Map 14 and existing Goal 33 were made over the course of many years through a very public process that included experts, residents, business owners, and stakeholders. We are asking that changes to these policies be given the same consideration. Do not allow the balance created by Map 14 and Goal 33 to be disrupted by these amendments.

Thank you for your time in consideration of our comments, questions and concerns.

Sincerely,



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<sup>12</sup> DOAH case 10-2988, paragraph 71

**Specific Language Changes and Comments:**

Policy 1.1.13 – we do not agree with the elimination of Map 14, and therefore do not agree with deleting the reference to Map 14.

Policy 1.4.5.2 – we are supportive of including the sentence that commercial uses can only be incorporated in the DR/GR as part of a mixed use community, whether in or out of the EEPC. We would like to see this language strengthened to “Commercial uses will only be incorporated into Mixed Use Communities and Environmental Enhancement and Preservation Communities.”

Commercial uses in the DR/GR were extensively discussed in the Hearing Examiner decision (HEX) on Verdana, Case DCI2016-00018 dated July 10, 2018. This decision discusses in detail the limited commercial possibilities in the DR/GR throughout the case but focuses on this issue in two places: page 6 and condition 18 in Exhibit B. We trust that this standard remains as there are two current applications<sup>13</sup> that seek changing the allowable uses in the DR/GR to allow exclusively commercial projects.

Policy 1.4.5.2.c should not be deleted.

Policy 1.7.6 - every seven years, Lee County is required to evaluate the Lee Plan and make appropriate updates based on the best available data and analysis. While we recognize that it has been more than 7 years since Lee County undertook this evaluation, it is not appropriate to just replace “2030” with “through the Plan’s horizon” especially when, as far as we know, the Plan’s horizon is still 2030. We recommend that Lee County update the planning horizon with a new date when there is a new planning horizon.

Policy 1.7.12 should not be deleted. If Lee County would like to clarify and streamline this policy, the words “sufficient”, “continued” and the phrase “to meet regional demands” can be stricken.

Policy 9.1.4 – do not delete reference to Map 14.

Goal 10 – as one of the primary purposes for this is to remove ambiguity, inserting the word “potential” into this Goal is counterproductive. What does this even mean? This implies that there is only the potential for adverse effects when we know by that natural resource extraction is incompatible with most other land uses and has detrimental impacts on surrounding land uses. This appears to be a ploy to downplay the severity of the impacts of mining and give the appearance that there could be a natural resource extraction operation without adverse effects. If that is not the intended meaning, then the additional word only makes the Goal less clear, less measurable and less predictable.

Objective 10.1 – The rewrite confuses us because it is internally inconsistent with other language in the Lee Plan and Code. We know that adverse effects of natural resource extraction operations cannot be completely eliminated or mitigated. Putting this sentence in this manner indicates that it is possible to eliminate adverse effects, undermining the truly destructive and impactful nature of natural resource

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<sup>13</sup> CPA2018-10008 Old Corkscrew Commercial and CPA2018-10011 Small Brothers Commercial

extraction. This type of language also doesn't provide meaningful or predictable standards in terms of what it means to minimize potential adverse effects. There could easily be a situation, such as the proposed Troyer mine, where there are demonstrable negative effects on the environment, neighboring properties and traffic safety. However, if the applicant can show that they are taking steps to minimize these impacts, will that be adequate for Lee County decision makers if the Lee Plan does not contain meaningful, predictable and measurable standards for what this language means or hopes to accomplish?

Policy 10.1.3 – While we are in favor of the intent of this policy, does it make sense to limit it to recycling of asphalt and concrete materials? There could be many alternatives to supplement the lime rock supply.

Policy 10.1.4 – What balance between Lee County's petroleum resources and public health, safety and welfare was determined? How is this related to lime rock mining and Map 14?

Objective 10.2 – why is "and future residential activities" being deleted?

Policy 10.2.2 – why is "depletion of water quantity" being replaced by "water budget"? What does water budget mean? Is that term defined in the Lee Plan? Depletion of water quantity seems more specific, measurable and quantifiable than water budget.

Policy 10.2.7 – We object to the elimination of Map 14, therefore, we object to deletion of that reference in this policy. If we accept the proposed language of Objective 10.1 that adverse impacts can be eliminated, shouldn't Lee County be requiring mines to eliminate the possibility of contamination of the surface and groundwater during mining and after completion of reclamation? There seems to be language which recognizes that mining is inherently destructive and dangerous in some policies, yet minimizes that reality in other policies. Language should be consistent. If the language in Objective 10.1 is not changed, then language in this Policy should be changed in order to make the policies internally consistent.

Goal 33 – Southeast Lee County.

A topic that is addressed in the existing goal is the "inherent conflict" between protecting natural resources and allowing lime rock mining. The Goal currently states that "[t]he best overall balance" is in consolidating mining into an existing corridor as depicted on Map 14 WHILE initiating long term restoration program to the south and east to benefit water resources and protect natural habitat. It also addresses that commercial development will not be significantly increased except where specifically allowed and addressed.

The revised goal does not address this inherent conflict between protection of natural resources and the approval of more lime rock mines. This is a mistake. As land becomes scarcer and more people move into the region, there are going to be more conflicts and problems from the practice of natural resource extraction. This balance between allowing for an activity that cannot be completely mitigated for and is inherently destructive and protecting the land, water, and resources that Lee County residents call



home is important and needs to remain as part of the Lee Plan. Revising this policy makes the direction of Lee County more ambiguous and opens up Lee County to more possibility of litigation because the priorities of Lee County become more obfuscated.

Objective 33.1 – do not delete

Policy 33.1.1 – deletion of this policy without answering, commenting or including some of the overriding and important information in this policy is unwarranted and we object to deletion of this policy. This policy states that by formally identifying mining areas, and directing new lime rock mines only in specific areas that Lee County can minimize the spread of the destructive practice of lime rock mining and that existing mines will be more fully utilized. Does Lee County have information that Map 14 has not been successful in directing the location of new mines and/or limiting incompatibility?

This policy goes on to state that limiting new mines will encourage existing mines to be fully utilized, and limit expansion without a clear need. Does Lee County have information that shows this policy doesn't work? Lime rock mining is a high disturbance activity whose effects of the surrounding area cannot be completely mitigated.

Lee County should not be moving in the direction to make it easier to engage in this high disturbance activity. As the population of Lee County grows, and more residents move into Lee County, it becomes more important that Lee County manage and utilize its resources wisely for the benefit of all residents. Removal of this policy does not appear to move Lee County in that direction.

New Objective 33.1 – it appears the Lee County is abandoning the creation of a future land use map overlay to identify the most critical land in Southeast Lee County to restore historic surface and groundwater levels and for improving the protection of other natural resources such as wetlands and wildlife habitat. Is that the case? We think that creating this overlay is laudable and important. At a minimum, best available science should be used in decision making by the consideration of primary and secondary Florida panther habitat<sup>14</sup> as well as Florida panther adult breeding habitat.<sup>15</sup> We're unclear how this Objective relates to mining or Map 14.

Policy 114.1.1 – we object to the deletion of Map 14 so we object to deletion of the reference.

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<sup>14</sup> Kautz et al. (2006). How much is enough? Landscape-scale conservation for the Florida Panther. *Biological Conservation* 130, 118-133 available at

[https://www.biologicaldiversity.org/programs/population\\_and\\_sustainability/urban\\_wildlands/pdfs/Kautz\\_et\\_al\\_2006\\_BiolCons.pdf](https://www.biologicaldiversity.org/programs/population_and_sustainability/urban_wildlands/pdfs/Kautz_et_al_2006_BiolCons.pdf)

<sup>15</sup> Frakes R.A., Belden R.C., Wood B.E., and James F.E. (2015). Landscape Analysis of Adult Florida Panther Habitat. *PLoS ONE* 10(7): e0133044. <https://doi.org/10.1371/journal.pone.0133044>



*Protecting Southwest Florida's unique natural environment and quality of life ... now and forever.*

January 24, 2019

Lee County Local Planning Agency  
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Mr. James Ink  
Mr. Don Schrotenboer  
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Mr. Stan Stouder  
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*Sent via email*

RE: CPA2018-10014: Goal 33/Limerock Mining

Dear LPA Members:

On behalf of our more than 7,000 supporting families, the Conservancy of Southwest Florida appreciates the opportunity to share the basis of our opposition to CPI2018-10014 which deletes Map 14 and amends policies throughout Lee County's comprehensive plan (Lee Plan) relating to lime rock-mining. We made comment at the December 17, 2018 LPA meeting, as well as submitting a letter in advance of that meeting. As most of our concerns were not addressed, that letter has been attached for your review. This letter is in response to the changes – or, more accurately, lack of changes – to the proposed amendment since the December LPA meeting.

The summary and analysis by staff beginning on page 14 of the staff report do not adequately address the concerns and comments presented by the public or the LPA. Specifically, the LPA was clear in asking that Map 14 be retained; staff has not presented justification for continued insistence on deletion of Map 14.

Staff has responded to input regarding the importance of meaningful dialogue – both public and private - with elected officials by including a provision for a public meeting held with and by the mining applicant. Statements to the LPA and comments on the public record from the Conservancy and most other organizations were intended to point out when a new mine requires a comprehensive plan amendment. The public is better served because property owners and interested parties can directly petition their elected officials, the county commissioners. If Map 14 is deleted, the ability for the public to discuss new mines with elected officials would be eliminated, as mine applications would go directly to the rezoning process.

Lee County has a unique way of handling rezoning applications: through a hearing examiner. As part of that process, when a case is being heard by the hearing examiner, members of the public are prohibited from



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communicating with the elected officials about those cases under threat of legal action. Hearing examiner cases also pose other logistical problems for the public in that the hearings can be continued for several days, often not in a row, and there is no way to know or guarantee when public comment will be heard. This is extremely important because if someone does not speak to the hearing examiner, that person is not allowed to address their elected officials, the Board of County Commissioners, when the application is before the BCC for a vote to approve or deny.

In contrast, when matters come before the LPA and BCC, we have high expectation that public comment will be taken on the day of the scheduled meeting. Also, even if someone does not address the LPA, that person is still allowed to speak to the BCC when the matter is being decided by them. Finally, there is the opportunity to petition, both in writing and in person, elected officials about the matter at hand in order to express concerns, educate commissioners, and provide differing views. By relegating mining applications to a purely rezone process, staff is severely restricting the ability of the public to be involved. No single required public meeting, which the commissioners will be prohibited from attending, can solve this issue. The only way to solve this problem is to keep mining (for applications outside Map 14) as a two pronged process that involves both a rezoning and comprehensive plan amendment.

We are disappointed that these comments by the public and the direction of the LPA are not incorporated into the current proposed language. Staff states that, "there are no provisions tied to Map 14 that require a cumulative analysis of mining impacts" as a reason why Map 14 is not necessary. The way to solve that is not to delete Map 14; it is to provide language in the comprehensive plan what would require amendments to Map 14 to look at the cumulative impacts of mines throughout the region. If staff believes there are deficiencies that have kept Map 14 from being successful, the answer is not to delete Map 14. The answer is to provide language in the comprehensive plan that will make Map 14 effective. Isn't the Lee Plan Objective 10.2 implemented during the comprehensive planning process? This objective requires that mining applications are evaluated for water supply planning, groundwater management, wildlife conservation, wetland protection, and to consider cumulative and watershed wide impacts of mining. Doesn't this mean that Lee County staff should, in fact, be evaluating cumulative impacts of new mining applications pursuant to language that already exists in the Lee Plan? It appears to us that there are existing provisions in the Lee Plan that require cumulative analysis of mining impacts that any amendment to the Lee Plan, including an amendment to Map 14, is proposed. It is our understanding that any amendment to the Lee Plan, including an amendment to Map 14 is required to be consistent with all provisions of the Lee Plan, including the evaluation of cumulative and watershed wide impacts of mining applications as stated in Objective 10.2

Is the concern that the language in the Lee Plan isn't specific enough, or that the language is regulatory? The staff report seems to indicate in some parts that the language is ineffective and ambiguous while simultaneously calling it regulatory language. We know that there exists a belief that regulatory standards do not belong in the comprehensive plan. We disagree with this, and find regulatory standards are necessary and logical to be in the comprehensive plan.



Staff argues that Map 14 and the process of adding property to Map 14 does not protect wildlife habitat, water resources, or assure compatibility with surrounding uses.<sup>1</sup> We disagree. As discussed above, Objective 10.2 specifically required these aspects of a new application to be evaluated. One of the hallmarks of the 2008 DR/GR amendments was Map 14, specifically because it did help to direct mining away from habitat and flowways, along with improving separation between heavy industrial use and residential communities. In order for a new parcel to be added to Map 14, the amendment is required to comply with and be consistent with all aspects of the Lee County Comprehensive Plan. It is therefore incumbent upon staff to make their recommendations based on the entirety of the Lee Plan, not to remove Map 14.

If a requirement to make additions to Map 14 and a concurrent MEPD is seen as beneficial, then the solution is to add that language to the comprehensive plan rather than creating reasons to delete the cornerstone of regulating mining in Lee County.

Language ambiguity is also an issue raised by staff. It appears there are concerns that some of the language in the Lee Plan is ambiguous and undefined. However, the language identified as vague or ambiguous has not caused any problems that we're aware of over the past 8 years. Therefore, we do not believe there is a problem with retaining the language. Indeed, other sections of the staff report seem to indicate that ambiguous language isn't an issue.<sup>2</sup> We understand the goal of these revisions is to reduce the ambiguities that "render the Lee Plan ineffective"<sup>3</sup>. However, the proposed replacement language is actually more problematic as it appears to be even more ambiguous.

Staff has stated repeatedly that these changes will not impact the current mining applications. While we agree that these changes will not impact the mining application for Old Corkscrew Plantation, we question whether these changes will impact the Troyer Brothers application. If there is no Map 14, there cannot be an amendment to Map 14. This would eliminate access the public should have to discuss the proposed Troyer Brothers Map 14 amendment with the elected commissioners of Lee County.

Input from the public and our recommendation for a workshop regarding these proposed changes have not been addressed. There has been no meaningful incorporation of a public workshop to discuss the changes. In addition, no reason has been presented as to why these significant changes need to be made.

It's important to recall the historical context of Map 14. It was the outcome of a carefully considered, carefully studied process that included experts, the public, staff, stakeholders and interested parties.<sup>4</sup> It is a compromise. One goal of Map 14 is to balance the competing land uses in the DR/GR. The language being stricken has meaning and was determined to have meaning by an administrative law judge in 2012. Chapter 12 of the Land Development Code is not required to balance the competing land uses and needs of the DR/GR, nor should it be. That delicate and complicated balancing equation is something that should exist as part of the Lee Plan.

<sup>1</sup> LPA Staff Report for CPA2018-10014 dated January 18, 2019, page 15 of 20

<sup>2</sup> LPA Staff Report for CPA2018-10014 dated January 18, 2019 page 20 of 20

<sup>3</sup> LPA Staff Report for CPA 2018-10014 dated January 18, 2019 page 2 of 20

<sup>4</sup> According to the Southwest Florida Regional Planning Council, over a two year period, there were 23 official DR/GR advisory committee meetings, and at least nine public hearings were held to solicit input on the DR/GR planning effort and creation of Map 14. The SWFRPC states that the adopted amendments that created Map 14 are "comprehensive, data-driven, equitable and defensible" available at <http://www.swfrpc.org/content/Agendas/2009/Dec/Item3e.pdf> (last visited 1/22/2019)

While the need for a market study is addressed in the attached letter, the market study is important enough to address specifically in this letter as well. Mining is impactful, and once blasted, land can never be returned or recovered to its natural state. There are few, if any, other land uses as permanent to land, wildlife, and adjacent neighborhoods as mining. This has been repeatedly recognized. We do not dispute the likelihood that the property owner has invested money before undertaking a mining project. However, due to the proprietary nature of mining and private ownership, it is impossible to make decisions about the nature, quantity and quality of aggregate available at any site prior to a private owner deciding to study and publish said study. It not only reasonable but responsible for Lee County Commissioners to require a study showing both that material of sufficient quality and quantity exist on a proposed location but also that there is an unmet regional need for the aggregate to consider when balancing the impact of a new mine. It is the responsibility of the County Commissioners to balance all the needs of Lee County residents in terms of habitat preservation, wildlife protection, wellfield protection, water recharge, and property rights. It is the responsibility of the County Commissioners to weigh the need to protect and serve the public good and balance that with the desire of a land owner to mine. The Commissioners cannot do that without a study that shows the quantity, quality, and need for the resource in the region. A study that provides all of the primarily private information must be required by Lee County and shared with the public as part of amending Map 14.

As previously stated, mining is a uniquely impactful activity. The DR/GR is a uniquely important area for wildlife, conservation, residential uses, agriculture, and water recharge. More and more residential uses have been approved for the DR/GR increasing the need for water recharge as well as increasing the probability that future and proposed mines will negatively impact residents, water recharge areas, flowways, and wildlife. This means that it is responsible and reasonable to ask for additional information and require a comprehensive plan amendment along with a rezoning in order to site and create a new mine.

We reiterate that there is nothing in the current language which would or could “require” Lee County to be a regional resource for lime rock or aggregate. State statutes prohibit such language, and the current language was deemed to specifically not create that burden in 2012. The language and the law have not changed since 2012. The language is clear, meaningful and predictable as is. This language – unlike most of the Lee Plan – has already been litigated and determined to meet the meaningful and predictable standard requirements found in the Florida Statutes. To put it simply, if it isn’t broke, don’t fix it. Map 14 and its attendant policies are not broken, and don’t need to be fixed through deletion.

Staff states in the report that current regulations allow for impacts to wetlands during mining operations and that this proposed change will somehow fix that.<sup>5</sup> The language in the current regulations exists because the fact is that mining is going to impact wetlands. Even if mines don’t specifically disturb a wetland, if there is a mining pit surrounding the wetland, that wetland is going to be cut off from its natural water source and cease to function as it did prior to blasting out the land around the wetland. This was the compromise when Map 14 was created. The small, isolated and lower functioning wetlands within these mines would be sacrificed in order for maximum resource extraction in the areas where mining is allowed. In return, more wetlands outside the mining area could be protected and saved from impact.

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<sup>5</sup> LPA Staff Report for CPA2018-10014 dated January 18, 2019, pages 1, 11, 12



We have always operated on the assumption that the Lee Plan is more of the broad strokes of how to meet the requirements of the Florida Statutes, while the Land Development Code is the nuts and bolts specifics of implementing the goals, objectives, and policies laid out in the Lee Plan. The Lee Plan, in its current iteration, does the hard work of providing a framework and requiring data in order for the County Commissioners to determine whether a site is appropriate for mining. Staff now seems to be saying that they need more guidance and regulation to make a recommendation to the Commissioners. If that is the case, the appropriate course of action is to add the needed guiding language to the comprehensive plan in order to eliminate the perceived confusion. The appropriate course of action is not to delete the guiding language about the siting of mines and Map 14 from the Lee Plan.

Map 14 has been one of the successful ways Lee County has protected and managed competing and incompatible interests and uses in the DR/GR. Map 14 and existing Goal 33 were created over the course of many years through a very public process that included experts, residents, business owners, and stakeholders. We are asking that changes to these policies be given the same consideration. Do not allow the balance created by Map 14 and Goal 33 to be disrupted by these amendments. Please vote to retain the market study, to retain Map 14, and advise the BCC to not transmit these amendments to state agencies for review.

Thank you for your time in consideration of our comments, questions, and concerns.

Sincerely,



Julianne Thomas  
Senior Environmental Planning Specialist  
(239) 262-0304 x 252  
[juliannet@conservancy.org](mailto:juliannet@conservancy.org)

cc:

John Manning, District 1 Commissioner, Lee County  
Cecil Pendergrass, District 2 Commissioner, Lee County  
Larry Kiker, District 3 Commissioner, Lee County  
Brian Hamman, District 4 Commissioner, Lee County  
Frank Mann, District 5 Commissioner, Lee County  
Michael Jacob, Deputy County Attorney, Lee County  
Janet Miller, LPA Liason, Lee County  
Mikki Rozdolski, Manager, Community Development Operations, Lee County  
Rebecca Sweigert, Principal Planner, Community Development, Lee County  
Mike Laskowski, Planner, Community Development, Lee County

## Dunn, Brandon

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**From:** Rohland, Stacey  
**Sent:** Thursday, February 07, 2019 11:21 AM  
**To:** Dunn, Brandon  
**Cc:** Loveland, David  
**Subject:** FW: [EXTERNAL] CPA2018-10014

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Robert Sofranko  
**Sent:** Wednesday, February 06, 2019 6:28 PM  
**To:** Dist1, John Manning ; [dist2@leehov.com](mailto:dist2@leehov.com); Dist3, Larry Kiker ; Dist4, Brian Hamman ; Dist5, Frank Mann  
**Subject:** [EXTERNAL] CPA2018-10014

In the best interests of our environment and the residents of Lee County I implore all of you to vote down the recent change in rule to permit lime rock mining along Corkscrew Road and SR 82. We do not need this disruption of our sensitive eco system.

Thank You  
Robert and Ruth Sofranko  
Lee County. Residents

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**Dunn, Brandon**

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**From:** Rohland, Stacey  
**Sent:** Wednesday, February 13, 2019 8:17 AM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon  
**Subject:** FW: Fast Tracking mining approval process

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** David Martin  
**Sent:** Tuesday, February 12, 2019 6:20 PM  
**To:** Dist1, John Manning ; Dist2, Cecil Pendergrass ; Dist3, Larry Kiker ; Dist4, Brian Hamman ; Dist5, Frank Mann  
**Subject:** [EXTERNAL] Fast Tracking mining approval process

I am communicating on behalf of a number of concerned citizens very concerned and opposed to the discussion and potential to change the requirements for the mine development or expansion approval process. As you are well aware South Lee County is currently highly stressed and being negatively impacted by over development of residential communities approved by you; some of which your campaign funds were significantly supplemented by specific developers.

Now we are facing the impact of additional deep rock mining operations which is of highly questionable necessity or measurable need proven by several studies. Many of us long term residents are concerned that our sensitive ecological environment is at, or beyond, the tipping point directly resulting from over residential and commercial development.

It makes no common sense at all to change (loosen) the current approval requirements that were developed and put in place to insure adequate studies are carried out prior to deciding and granting approval. Please consider the residents of South Lee County, our environment, and the future that we leave for our children for our children to enjoy; approval processes requirements and restrictions must be more severe, not loosened.

I am disappointed that I will not be able to attend the upcoming meeting regarding this critical subject matter.

Regards; David Martin; Estero

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## Dunn, Brandon

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**From:** Rohland, Stacey  
**Sent:** Wednesday, February 13, 2019 8:16 AM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon  
**Subject:** FW: [EXTERNAL] Mining Amendment

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning Lee County Board of County Commissioners  
District 1  
239-533-2224

-----Original Message-----

From: Gayle Sheets <[gayleschmidt@mac.com](mailto:gayleschmidt@mac.com)>  
Sent: Tuesday, February 12, 2019 5:41 PM  
To: Dist1, John Manning <[Dist1@leegov.com](mailto:Dist1@leegov.com)>  
Subject: [EXTERNAL] Mining Amendment

Dear Commissioner,

Please vote against loosening restrictions on mining. The current Lee Plan process is very clear and was arrived at through public and transparent means that brought all parties to the table. Over \$1 Million was spent ten years ago to create this process. The current rushed effort is disdainful and threatens the quality of life of many residents. I don't even live in the affected areas, and I'm appalled at what County Staff is up to. And I'm appalled at you for considering this.

As a voting citizen, I demand that public workshops be held so that all parties may have input into this process. Our water supply and quality, wildlife habitat, and quality of life depend on it.

Respectfully,

Gayle Sheets  
9820 Ensign Court  
Fort Myers, Florida 33919

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## Dunn, Brandon

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**From:** Rohland, Stacey  
**Sent:** Wednesday, February 13, 2019 8:17 AM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon  
**Subject:** FW: [EXTERNAL] Don't fast track DRGR Mining Applications

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning Lee County Board of County Commissioners  
District 1  
239-533-2224

-----Original Message-----

From: Judy Workman <[jworkmn@aol.com](mailto:jworkmn@aol.com)>  
Sent: Tuesday, February 12, 2019 6:35 PM  
To: Dist1, John Manning <[Dist1@leegov.com](mailto:Dist1@leegov.com)>; Dist2, Cecil Pendergrass <[dist2@leegov.com](mailto:dist2@leegov.com)>;  
Dist3, Larry Kiker <[dist3@leegov.com](mailto:dist3@leegov.com)>; Dist4, Brian Hamman <[dist4@leegov.com](mailto:dist4@leegov.com)>; Dist5, Frank  
Mann <[Dist5@leegov.com](mailto:Dist5@leegov.com)>  
Subject: [EXTERNAL] Don't fast track DRGR Mining Applications

Commissioners:

Please do not allow fast tracking of mining in the DRGR. In fact, mining should be carefully scrutinized if it's approved at all. As you well know, the wetlands are critical to our Av  
Sent from my iPhone

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## Dunn, Brandon

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**From:** Rohland, Stacey  
**Sent:** Wednesday, February 13, 2019 8:17 AM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon  
**Subject:** FW: [EXTERNAL] Keep the overlay district and needs analysis requirements in the mining approval

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning Lee County Board of County Commissioners  
District 1  
239-533-2224

-----Original Message-----

From: Roger Nolan <[nolan2575@gmail.com](mailto:nolan2575@gmail.com)>  
Sent: Tuesday, February 12, 2019 5:55 PM  
To: Dist1, John Manning <[Dist1@leegov.com](mailto:Dist1@leegov.com)>; Dist2, Cecil Pendergrass <[dist2@leegov.com](mailto:dist2@leegov.com)>; Dist3, Larry Kiker <[dist3@leegov.com](mailto:dist3@leegov.com)>; Dist4, Brian Hamman <[dist4@leegov.com](mailto:dist4@leegov.com)>; Dist5, Frank Mann <[Dist5@leegov.com](mailto:Dist5@leegov.com)>  
Cc: [webmaster@esterofl.org](mailto:webmaster@esterofl.org)  
Subject: [EXTERNAL] Keep the overlay district and needs analysis requirements in the mining approval

Dear Commissioner

I support the Lee Plan requirements for needs analysis and inclusion of the overlay district in the process for land use determination. Fast-tracking mining applications is detrimental to our waters, our wildlife, and our quality of life. It is widely recognized that, by its very nature, mining is incompatible with other land uses. The entire community worked together to set up the compromises embodied in the Lee Plan. Protect the process by leaving the Lee Plan as it is.

--

Ms Roger Nolan  
[nolan2575@gmail.com](mailto:nolan2575@gmail.com)  
20107 EAGLE STONE DR  
ESTERO, FL 33928

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**Dunn, Brandon**

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**From:** Rohland, Stacey  
**Sent:** Wednesday, February 13, 2019 3:51 PM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon  
**Subject:** FW: [EXTERNAL] Rock mining in Estero and support for the Lee Plan

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Ed Shino  
**Sent:** Wednesday, February 13, 2019 11:40 AM  
**To:** Dist4, Brian Hamman ; Dist2, Cecil Pendergrass ; Dist5, Frank Mann ; Dist1, John Manning ; Dist3, Larry Kiker  
**Subject:** [EXTERNAL] Rock mining in Estero and support for the Lee Plan

Gentleman,

As a resident of Estero, I support the Lee Plan requirements for needs analysis and inclusion of the overlay district in the process for land use determination.

Fast-tracking mining applications is detrimental to our waters, our wildlife, and our quality of life. It is widely recognized that, by its very nature, mining is incompatible with other land uses. The entire community worked together to set up the compromises embodied in the Lee Plan.

Protect the process by leaving the Lee Plan as it is.

Regards,

Ed Shinouskis  
23650 Via Veneto Blvd, Apt 901  
Estero, FL 34134  
239-877-6847

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## **Dunn, Brandon**

---

**From:** Rohland, Stacey  
**Sent:** Wednesday, February 13, 2019 3:51 PM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon  
**Subject:** FW: [EXTERNAL] Loosening Mining Constraints

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Roy T Van Brunt  
**Sent:** Wednesday, February 13, 2019 1:36 PM  
**To:** Dist1, John Manning ; Dist2, Cecil Pendergrass ; Dist3, Larry Kiker ; Dist4, Brian Hamman ; Dist5, Frank Mann  
**Subject:** [EXTERNAL] Loosening Mining Constraints

I'm a relatively new resident of Lee County, although I have lived here since 2013, in Wildcat Run (Estero).

And although I have addressed this to all five of you commissioners, I'm aware that it's Mr. Pendergrass and Mr. Kiker who represent Estero.

Before moving to Florida in 2007, I had the very good fortune to have lived and raised my family 35 years in Howard County, Maryland, wherein Columbia, Maryland (Jim Rouse's well-planned city) was built. Planning - thorough, well thought-out, unhurried, and community-participative planning was a keystone of designing and building what grew to be a city of over 100,000 residents. Good counties have well planned-for growth. I had been under the impression that Lee County was one of them, and that it had in place a reasonable Plan for growth, but that is presently planning to act contrary to that plan (by allowing mining expansion earlier than planned).

Although the title of this email is the currently under-consideration loosening of mining constraints, the very much more basic issue is the planning process itself - or lack thereof - for the same.

As a tax-paying resident, I really am unnerved by the rapidity under which the apparent loosening of mining constraints is being undertaken. And as a resident, I am asking all five of you to to pause that hurried loosening, and to allow for the scheduling and holding of workshops and public participation forums at which both sides of the question - more mines, or stay with the present plan restricting approval of more mines - can be aired and openly discussed. As County Commissioners, I think you owe your constituents that kind of action.

I assume that you have seen the picture today of the huge sand truck that lost control yesterday driving west on Corkscrew, nearly rear-ending a county resident, before crashing into woods on the north side of Corkscrew near Wildcat Run. This kind of incident forecasts more that will take place if you act to allow the expanded



mining. As a matter of practicality, nothing works to slow these trucks down as they travel west from the mines to I-75. They speed; they run red lights at Ben Hill Griffin. "Rules", instructions, policies, etc., that say using Corkscrew is "prohibited", and that they should follow Alico rather than Corkscrew to reach I-75 have demonstrated they are useless. Law enforcement cannot allocate the resources to police the problem (and when they may be able to have a patrol watch traffic there, CB radio contact between the truckers will alter their route while such enforcement may be monitoring the road.

The problem itself is enhanced by the fact that the Commissioners have, in the past, allowed widespread residential development along Corkscrew in recent years while simultaneously not having assured that Corkscrew has been widened to accommodate that increased traffic flow that has to result from that residential influx. It is becoming dangerous, and will become ever more dangerous to resident taxpayers, to exit from these developments onto Corkscrew - Grandezza, Wildcat Run, the Preserve, Corkscrew Shores, The Place, etc. - and your action to allow any increase in mining truck traffic will just exacerbate the problem. Responsibility for the first fatality - and there will be one - that results from a Corkscrew collision because of the Council's poor planning will fall on those of you who have allowed it. It is really amazing to me that just south one exit on I-75, prior county planning has in place a two-lane, paved and divided road for 5 miles east of I-75, but Corkscrew has remained a one-lane, undivided road for all of that comparable length and longer. This just does not evidence good planning by the Council. We badly need and request better planning in this topic.

There may be, I suppose, cogent reasons for the Council to be acting with such haste to consider/approve loosening the present mining constraints. But they do not seem to be well-articulated by the Council or by the individual Commissioners themselves, and the present apparently hurried rush to approve the expanding mining operations, unaccompanied by any reliable and workable constraints that would make Corkscrew safer to drive, exceeds the borders of responsible government practice.

I ask each of you to slow the process. Hold hearings and public participation events, ....and listen to your constituents. You already have in place a County Plan, and one under which such expanded mining would not be permitted without your presently planned actions. I urge you to stay with the Plan, and if you do not want to do that, to be forthright with good explanations of why you individually believe that adding more fast-traveling, heavy duty sand trucks to an already over-crowded, narrow one-lane road like Corkscrew seems to you to be a good idea.

I thank you for your attention to this communication.

Roy Van Brunt  
[royvb@aol.com](mailto:royvb@aol.com)  
20281 Country Club Drive  
Estero

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## **Dunn, Brandon**

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**From:** Rohland, Stacey  
**Sent:** Thursday, February 14, 2019 8:07 AM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon  
**Subject:** FW: [EXTERNAL] For Feb. 20th BoCC Mtg: Comments on Limerock Mining Comp Plan Amendment

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Darla Letourneau  
**Sent:** Wednesday, February 13, 2019 5:52 PM  
**To:** Dist1, John Manning ; Dist2, Cecil Pendergrass ; Dist3, Larry Kiker ; Dist4, Brian Hamman ; Dist5, Frank Mann  
**Cc:** Desjarlais, Roger  
**Subject:** [EXTERNAL] For Feb. 20th BoCC Mtg: Comments on Limerock Mining Comp Plan Amendment

County Commissioners:

I understand that on Feb. 20th, the Board will hold a public hearing on the proposed amendment to the Lee Plan that would allow **even more** lime rock mining in the County! This amendment is clearly not supported by the citizens and voters of Lee County because it threatens the water supply and future environment of all of Lee County, puts more gravel trucks on the roads on many of the county arterial roads and I-75, and will destroy the quality of life (and health) for anyone living anywhere near the mines.

It's hard to believe that after the past year's disastrous water quality crisis, algae blooms, and red tide, and the resultant economic hit for businesses throughout the County, that the County Commissioner would be willing to take action that further threatens Lee County's future. Relaxing mining rules and regulations to allow new lime rock mines in the county estuary headwaters will threaten our future environment. While all the other municipalities in Lee County have banded together to make water quality the #1 issue not only in SWFL but the entire state, the Board is busy undermining this effort through it's many growth and development decisions, and now is considering adding more fuel to the fire by considering action to expand mining!

Mining clearly impairs our wetlands, which then diminishes the future water supply in Lee County, so this land use (mining) needs to be rigorously justified on the basis of need. Studies by outside experts clearly show that there is enough lime rock to last and county and region for the next 30 years.

The County's process for considering this major change to the Lee Plan is being rushed through without adequate public input, which should include public workshops, and a community-wide debate. Instead, the Staff attempted to sneak this through over the Christmas holidays while citizens were distracted. On matters that affect the environment and quality of life of the citizens of all Lee County, the voters should have ample

opportunity for meaningful involvement before the Board votes and the Board should represent the wishes of the voters when making those decisions.

The DRGR that was put in place to protect our water supply was incorporated into the Lee Plan 10 years ago after much effort (including \$1.6 M expenditure) and wide community involvement . The current Lee Plan and existing rules and regulations regarding rock mining don't need to be changed.

I hope that you will listen to the voters and taxpayers of Lee County and oppose this unwise and unnecessary amendment to the Lee Plan.

Darla

Darla Letourneau  
[dletourneau35@gmail.com](mailto:dletourneau35@gmail.com)  
239-850-3219

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## SPIKOWSKI PLANNING ASSOCIATES

February 14, 2019

Steven Sarkozy, Village Manager  
Village of Estero  
9401 Corkscrew Palms Circle  
Estero, Florida 33928

Dear Mr. Sarkozy:

Attached please find the peer review you requested of two recent analyses of future limerock demand and supply:

- ❑ *Southeast Lee County Density Reduction / Groundwater Resource Mining Study*, prepared in 2016 by Waldrop Engineering for the Lee County Department of Community Development
- ❑ *An Evaluation of SE Lee Co. DR/GR and Regional Lime Rock Mines: A Local and Regional Mine Analysis Using Mine Specific Geotechnical Reports and County Monitoring Reports*, prepared in 2018 by Stuart and Associates for Sakata Seed America, Inc.

My technical conclusions are summarized in Section 2. Section 3 describes the four analytical issues that account for the differing conclusions of these analyses. Section 4 summarizes how the four issues were addressed by each analyst (including the original 2008 study). Sections 5–7 provide more details on each study, concluding with shortcomings identified during this peer review. Section 8 explains the most critical issues in more detail and describes the effects that analytical errors will have on land use and the environment in southeast Lee County.

If you have questions about this peer review, contact me at any time.

Sincerely yours,

William M. Spikowski, FAICP

# PEER REVIEW

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## **SOUTHEAST LEE COUNTY DENSITY REDUCTION / GROUNDWATER RESOURCE MINING STUDY**

PREPARED IN 2016 BY WALDROP ENGINEERING

## **AN EVALUATION OF SE LEE CO. DR/GR AND REGIONAL LIME ROCK MINES: A LOCAL AND REGIONAL MINE ANALYSIS USING MINE SPECIFIC GEOTECHNICAL REPORTS AND COUNTY MONITORING REPORTS**

PREPARED IN 2018 BY STUART AND ASSOCIATES

February 2019

### **Spikowski Planning Associates**

1617 Hendry Street, Suite 416  
Fort Myers, Florida 33901-2947

[www.spikowski.com](http://www.spikowski.com)

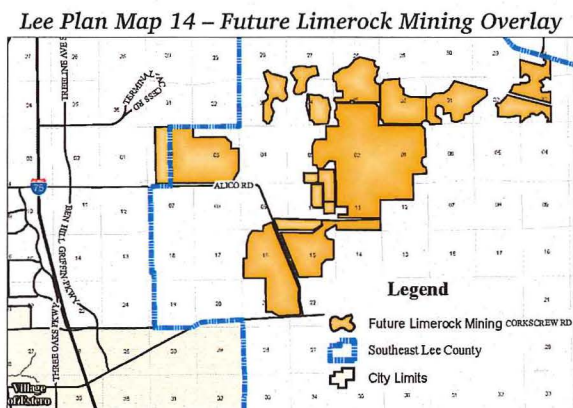


## 1. Introduction

Since 2010, the Lee County Comprehensive Plan (Lee Plan) has required an objective analysis of demand and supply of limerock,<sup>1</sup> an essential construction material made from limestone that is used to make concrete and asphalt and to support roads, parking lots, buried pipes, etc.

The limerock analysis, updated by the county every seven years, is used to determine if the area suitable for mining needs to be expanded:

*LEE PLAN POLICY 33.1.1: "Limerock mining is a high-disturbance activity whose effects on the surrounding area cannot be completely mitigated. To minimize the impacts of mining on valuable water resources, natural systems, residential areas, and the road system, Map 14 identifies Future Limerock Mining areas that will concentrate limerock mining activity in the traditional Alico Road industrial corridor east of I-75."*



The first limerock analysis was performed for Lee County by Dover, Kohl & Partners in 2008.<sup>2</sup> The author of this peer review was the primary author of the Dover Kohl analysis.

Lee County commissioned the first required update in 2016, which was completed by Waldrop Engineering.<sup>3</sup> A private landowner, Sakata Seed America, Inc., commissioned its own update by Stuart and Associates in 2018.<sup>4</sup>

The Village of Estero commissioned this peer review of the Waldrop and Stuart updates in 2019. The primary conclusions of this peer review are summarized on the next page.

The three limerock analyses have a great deal in common. They all examine the regional demand for limerock for the same seven counties for a 20-year period, and often rely on the same data and methodological assumptions.

This peer review examines the most important differences between the Waldrop and Stuart updates to understand their conflicting conclusions as to whether additional mines will be needed by the year 2040. There are four major analytical issues that account for the conflicting conclusions.

Lee County staff is now recommending that the limerock analysis requirement, and Map 14 itself, be deleted from the Lee Plan based on their contention that the analytical requirement is too difficult and Map 14 is not needed.<sup>5</sup> This is extremely unfortunate because it ignores the myriad reasons that led to the adoption of Map 14 and the related protective measures provided to southeast Lee County in 2010.

It was not obvious in 2008 how a long-term limerock analysis should be performed. With the recent addition of the 2016 and 2018 updates by different professional teams, the proper methodology is becoming evident. This methodology could be standardized by county officials for use in future updates.

The four key differences between these analyses are fairly straightforward. Section 3 of this peer review summarizes two competing approaches to each. Section 4 then compares all three limerock analyses as to each issue.

The way these four issues are addressed has profound implications for the outcome – not just in extent, but in changing the fundamental conclusion as to whether more mines need to be approved soon (and if not soon, about how far into the future they might be needed).

Sections 5, 6, and 7 examine the differences between each prior analysis in more detail. The conclusion in Section 8 explains the most critical issues and identifies refinements that would increase the accuracy of limerock supply and demand analyses.

## 2. Summary of Technical Conclusions

- ▶ **Waldrop** overestimated the amount of limerock that will be needed in the region through the year 2040. The state's official population projections show a slowing rate of growth toward 2040, yet Waldrop assumed the demand for limerock will vary only with the (increasing) total population each year, not reflecting in any way the (declining) rate of construction each year (see page 12). The recent recession was the clearest possible demonstration of the relationship between demand for limerock and the rate of construction.
- ▶ **Waldrop** underestimated the amount of limerock that can be produced from several large mines currently operating in Lee County. Waldrop used the same basic methodology as Dover Kohl used in 2008 to determine remaining capacity, but reduced that capacity by 20% to reflect losses "resulting from blasting, processing, operations, and trucking." A 20% loss reduction is often validly applied in mining analyses, but here it was applied to mine capacities that had already taken most of those losses into account (see pages 6 and 11). In addition, most newer mines have a thicker limestone layer than older mines, which will increase their yields.
- ▶ **Waldrop** did not consider supply from existing mines in Charlotte County and from at least one major mine in Collier County, even for use within those counties. The Dover Kohl report used one approach to reflect output from Charlotte and Collier mines (see page 5); the Stuart report used a better approach by identifying and analyzing every operating mine in both counties (see page 9).
- ▶ Due to these shortcomings, the analysis in the **Waldrop** study does not support its conclusion that more mines will be needed in Lee County to meet regional demand through 2040.
- ▶ **Stuart** overestimated the amount of limerock that will be needed by 2040 by duplicating the Waldrop demand methodology.
- ▶ **Stuart** overestimated the amount of limerock that can be removed from existing mines by not relying on reliable survey data from all Lee County mines that identifies the actual depth of mining pits after extraction of usable limerock. Instead, Stuart substituted estimates of remaining mine capacity based on pre-mining estimates of rock thickness, minus 20% for anticipated losses during mining. Stuart ignored the Dover Kohl analysis, based on the survey data, that demonstrated actual reductions as much as double Stuart's 20% figure. (See page 11.)
- ▶ **Stuart** overestimated demand and overestimated supply. If both overestimates were corrected, the Stuart approach would become the most accurate and timely assessment yet prepared. Although Stuart's conclusion about the abundance of supply over demand appears correct, the specific numerical conclusions for future years should not be relied on until the analysis is revised.



### 3. Major Analytical Issues

This page identifies four analytical issues that account for the differing conclusions in past comparisons of limerock demand and supply. The next page compares the assumptions made in each prior analysis regarding these four issues.

#### Demand for Limerock

- A. Future demand for limerock should be based on our anticipated total population.
- B. Future demand for limerock should be based on our anticipated rate of growth.

##### IMPLICATIONS:

- Choice "A" is the simplest to apply. It assumes that limerock demand is created by existing residents and is not affected by construction that accommodates new residents and businesses.
- Choice "B" is more difficult to apply. It is based on historical observations that the demand for limerock increases and decreases with the level of construction. (Choices "A" and "B" can be combined.)

#### Supply: Mine Locations

- A. Regional supply should come from rock mines in Lee County only.
- B. Regional supply should come from rock mines in all counties with rock mines.

##### IMPLICATIONS:

- Choice "A" is the easiest to apply. Lee County collects the most thorough data on existing and proposed mines.
- Choice "B" is more difficult to apply. For mines outside Lee County, data is available from Florida DEP and from files in those counties. Trucking costs from mines in Collier County make them impractical to meet demand in northern counties in the region.

#### Supply: Mine Capacity

- A. Remaining capacity of mines should be based on pre-mining estimates of the thickness of the rock layer at each mine.
- B. Remaining capacity of mines should be based on their recent performance (by measuring the depth of pits at each mine).

##### IMPLICATIONS:

- Choice "A" is the easiest to apply. Theoretical projections can be based on data submitted by mine applicants during the rezoning process about the thickness of the limestone layer under their property.
- Choice "B" is more difficult to apply. Mines in Lee County must submit actual data on the depth of all mine pits; that data can be used to extrapolate the remaining capacity of that mine. Such data is rarely available for mines outside Lee County.

#### Supply: Mining Losses

- A. Since a considerable percentage of limestone that is attempted to be mined cannot be converted to a salable product, each mine should be examined to determine typical losses for that mine.
- B. A fixed percentage should be assumed to reduce the volume of limestone attempted to be mined to reflect expected losses for all mines.

##### IMPLICATIONS:

- Choice "A" is more difficult to apply because it requires examination of bathymetric surveys for each mine.
- Choice "B" is the simplest to apply; however an inaccurate percentage used to estimate losses will have a major effect on the conclusions of the analysis.

#### 4. Simplified Comparison of Three Limerock Demand/Supply Analyses

DOVER KOHL (2008)	WALDROP (2016)	STUART (2018)
<b>DEMAND FOR LIMEROCK:</b> <p>Dover Kohl assumed that future demand for limerock should be based 1/4 on anticipated total population and 3/4 on anticipated rate of construction.</p>	<b>DEMAND FOR LIMEROCK:</b> <p>Waldrop assumed that future demand for limerock should be based entirely on anticipated total population.</p>	<b>DEMAND FOR LIMEROCK:</b> <p>Stuart assumed that future demand for limerock should be based entirely on anticipated total population.  <i>(mirroring Waldrop methodology)</i></p>
<b>MINE LOCATIONS:</b> <p>Dover Kohl assumed that 80% of regional supply should come from rock mines in Lee County and the remaining 20% from mines in other counties (based on past performance).</p>	<b>MINE LOCATIONS:</b> <p>Waldrop assumed that regional supply would come from rock mines in Lee County; and even if four mines in Collier were considered, there still would be insufficient limerock by 2040.</p>	<b>MINE LOCATIONS:</b> <p>Stuart assumed that regional supply should come from all rock mines in the region, including all mines in Charlotte and Collier County.</p>
<b>MINE CAPACITY:</b> <p>Dover Kohl assumed that remaining capacity of mines should be based on their recent performance (by measuring the depth of pits at each mine).</p>	<b>MINE CAPACITY:</b> <p>Waldrop assumed that remaining capacity of mines should be based on their recent performance.  <i>(refining Dover Kohl methodology)</i></p>	<b>MINE CAPACITY:</b> <p>Stuart assumed that remaining capacity of mines should be based on pre-mining estimates of the thickness of the rock layer at each mine.</p>
<b>MINING LOSSES:</b> <p>Dover Kohl did not deduct a fixed percentage for mining losses because its methodology directly accounted for most of those losses.</p>	<b>MINING LOSSES:</b> <p>Waldrop reduced Dover Kohl's remaining mine capacity by 20%, apparently anticipating additional losses from blasting, processing, operations, and trucking.</p>	<b>MINING LOSSES:</b> <p>Stuart assumed that only 20% of the entire rock layer would be unusable due to losses during mining, processing, and trucking.</p>



## 5. Summary of Dover Kohl Analysis

### DOVER KOHL (2008)

#### BIBLIOGRAPHY:

- ▶ **Report Title:** Limerock Production & Demand (Appendix B of *Prospects for Southeast Lee County: Planning for the Density Reduction / Groundwater Resource Area (DR/GR)*), prepared for Lee County Department of Community Development
- ▶ **Publication Date:** July 2008
- ▶ **Author:** Team led by Dover, Kohl & Partners

#### TARGET YEAR (PLANNING PERIOD):

Through the year 2030

#### DEMAND METHODOLOGY:

Dover Kohl assumed that future demand for limerock should be based 1/4 on anticipated total population and 3/4 on anticipated rate of construction, for Charlotte, Collier, DeSoto, Glades, Lee, and Sarasota Counties.

- ▶ **Population:** 9 tons/person/year, for 2,547,600 residents by 2030
- ▶ **Growth:** 575,045 additional dwelling units by 2030 (*see Table B-5*)

#### MINE LOCATIONS GENERALLY:

Dover Kohl assumed that 80% of regional supply would come from rock mines in Lee County and the remaining 20% from mines in other counties. This percentage was based on estimated mine production in Lee County from 1980 through 2006, relative to demand during that period for the entire seven-county region.

#### MINE LOCATIONS (LEE CO.):

The following approved mines in Lee County were determined to have additional limerock capacity and were analyzed in detail:

- ▶ Rinker Materials (now Cemex)
- ▶ Rinker Materials (now Wild Blue)
- ▶ Florida Rock Greenmeadows & expansion
- ▶ Youngquist (University and West Lakes)
- ▶ Cemex/RMC
- ▶ Bonita Grande Aggregates

The following mines were also examined but were not included in the supply analysis because they had not been approved at that time, or had not been approved for limerock:

- ▶ Westwind Corkscrew
- ▶ Bell Road
- ▶ Bonita Land Resources
- ▶ Plumosa Farm
- ▶ Florida Rock Mine #2
- ▶ Corkscrew Excavation
- ▶ Golfrock
- ▶ Estero Group
- ▶ Schwab 640 and II
- ▶ Cypress Bay
- ▶ Ibis Lake Estates

#### MINE LOCATIONS (COLLIER CO.):

Existing limerock mines in northern Collier County were identified in Figure B-1. No data or estimates of remaining capacity were provided for any Collier mines.

#### MINE LOCATIONS (CHARLOTTE CO.):

Existing limerock mines in southern Charlotte County were identified in Figure B-1. No data or estimates of remaining capacity were provided for any Charlotte mines.



## MINE CAPACITY METHODOLOGY:

Dover Kohl assumed that remaining capacity of mines should be based on their recent performance. This was done by estimating the average thickness of the limestone layer at each mine.

The amount of usable limestone removed from each pit was assumed to be the remaining space between the top of the limestone and the actual bottom of the completed mining pit (obtained from bathymetric surveys found in county records, which are prepared by each mine operator and submitted in accordance with county monitoring requirements for limerock mines).

Limestone that could not be recovered from the pit settles at the bottom, as does unusable material that is removed during processing and washed back into the pit.

The thickness of limestone in the remainder of the mine was assumed to be the same the thickness previously removed from the existing pit(s).

This thickness was multiplied by the remaining acreage that had been approved for each pit, with the volume then converted to tons and to cubic yards.

## MINING LOSSES:

Dover Kohl did not deduct a fixed percentage for mining losses because its methodology capacity methodology, as described above, directly accounted for most of those losses.

## CONCLUSIONS OF THIS ANALYSIS:

**“... 4,397 additional [acres] will need to be mined from 2007 through 2030. This equals about 183 acres per year averaged over this planning period — in total, about 22% more land than the 3,576 acres that have already been permitted by Lee County.”**

*[NOTE: This conclusion did not include Florida Rock Mine #2, which hadn't been approved by Lee County. Dover Kohl estimated the minable acreage of that mine, if later approved, would be 2,471 additional acres.]*

## SHORTCOMINGS IDENTIFIED IN THIS PEER REVIEW:

- ▶ Collier and Charlotte limerock mines were assumed to continue supplying 20% of regional demand. A better approach was used in the Stuart analysis, where mines in those counties were analyzed for remaining capacity the same as Lee County mines. (The result may be an increase or decrease in the 20% that Dover Kohl assumed would be supplied by mines outside Lee County.)
- ▶ The depth of overburden was estimated from regional data sources. A better approach was used by Stuart by relying on soil profiles for each mine to estimate the average depth where the limestone layer begins. The results would vary, but would generally increase the remaining mine capacity, especially in newer mines where the limestone layer is considerably thicker than in older mines.



## 6. Summary of Waldrop Analysis

### WALDROP (2016)

#### BIBLIOGRAPHY:

- ▶ **Report Title:** *Southeast Lee County Density Reduction / Groundwater Resource Mining Study*, prepared for the Lee County Department of Community Development.
- ▶ **Publication Date:** September 2016
- ▶ **Author:** Waldrop Engineering

#### TARGET YEAR (PLANNING PERIOD):

Through the year 2040

#### DEMAND METHODOLOGY:

Waldrop assumed that future demand for limerock should be based entirely on anticipated total population (for Charlotte, Collier, DeSoto, Glades, Lee, and Sarasota Counties).

- ▶ **Population:** 9 tons/person/year, for 2,319,600 residents by 2040

#### MINE LOCATIONS GENERALLY:

Waldrop assumed that regional supply would come from rock mines in Lee County; and even if four mines in Collier were considered, there still would be insufficient limerock by 2040.

#### MINE LOCATIONS (LEE CO.):

The following mines in Lee County were determined to have additional limerock capacity and were analyzed in detail:

- ▶ Rinker Materials 3A & 3B (now Cemex)
- ▶ Greenmeadows
- ▶ Greenmeadows expansion
- ▶ Florida Rock Mine #2
- ▶ West Lakes
- ▶ Westwind Corkscrew
- ▶ Cemex/RMC
- ▶ Bonita Grande Mine
- ▶ Plumosa Farms
- ▶ Bell Road
- ▶ Cemex North Quarry 3

#### MINE LOCATIONS (COLLIER CO.):

Five existing limerock mines in northern Collier County were identified. Data and estimates of remaining capacity was included for four mines, as provided by Collier County officials. No data was available for the fifth mine.

#### MINE LOCATIONS (CHARLOTTE CO):

Charlotte County mines were assumed to have only minor reserves of limerock, or none at all, and therefore would not contribute to local or regional supply.



### **MINE CAPACITY METHODOLOGY:**

Waldrop assumed that remaining capacity of mines should be based on their recent performance, updating the Dover Kohl methodology slightly. (See description of the Dover Kohl methodology two pages earlier.)

### **MINING LOSSES:**

Waldrop reduced Dover Kohl's remaining mine capacity by 20%, apparently anticipating additional losses from blasting, processing, operations, and trucking.

### **CONCLUSIONS OF THIS ANALYSIS:**

**"... Lee County has sufficient limerock supply to meet the regional demand through the 2030 planning horizon. However, there is a deficit of approximately 84 million cubic yards of limerock to meet the regional needs through the 2040 planning horizon ..."**

### **SHORTCOMINGS IDENTIFIED IN THIS PEER REVIEW:**

- ▶ *Waldrop overestimated the amount of limerock that will be needed in the region through the year 2040. The state's official population projections show a slowing rate of growth toward 2040, yet Waldrop assumed the demand for limerock will vary only with the (increasing) total population each year, not reflecting in any way the (declining) rate of construction each year.*
- ▶ *Waldrop underestimated the amount of limerock that can be produced from several large mines currently operating in Lee County. Waldrop used the same basic methodology as Dover Kohl used in 2008, but reduced that capacity by 20% to reflect losses "resulting from blasting, processing, operations, and trucking." A 20% loss reduction is often validly applied in mining analyses, but here it was applied to mine capacities that had already taken most of those losses into account. In addition, newer mines have a thicker limestone layer than older mines, which will increase their yields.*
- ▶ *Waldrop did not consider supply from existing mines in Charlotte County and from at least one major mine in Collier County, even for use within those counties.*
- ▶ *Due to these shortcomings, the analysis in the Waldrop study does not support its conclusion that more mines will be needed in Lee County to meet regional demand through the year 2040.*



## 7. Summary of Stuart Analysis

### STUART (2018)

#### BIBLIOGRAPHY:

- ▶ **Report Title:** *An Evaluation of SE Lee Co. DR/GR and Regional Lime Rock Mines: A Local and Regional Mine Analysis Using Mine Specific Geotechnical Reports and County Monitoring Reports*, prepared for Sakata Seed America, Inc.
- ▶ **Publication Date:** May 30, 2018
- ▶ **Author:** Stuart and Associates

#### TARGET YEAR (PLANNING PERIOD):

Through the year 2040

#### DEMAND METHODOLOGY:

Stuart assumed that future demand for limerock should be based entirely on anticipated total population (for Charlotte, Collier, DeSoto, Glades, Lee, and Sarasota Counties).

- ▶ **Population:** 9 tons/person/year, for 2,319,600 residents by 2040

#### MINE LOCATIONS GENERALLY:

Stuart assumed that regional supply should come from all rock mines in the region, including all mines in Charlotte and Collier Counties.

#### MINE LOCATIONS (LEE CO.):

The following mines in Lee County were determined to have additional limerock capacity and were analyzed in detail:

- ▶ Rinker Materials 3A & 3B (*now Cemex*)
- ▶ Greenmeadows
- ▶ Greenmeadows expansion
- ▶ Florida Rock Mine #2
- ▶ University Lakes and West Lakes
- ▶ Westwind Corkscrew
- ▶ Bonita Grande Mine
- ▶ Plumosa Farms
- ▶ Bell Road
- ▶ Cemex North Quarry 3

#### MINE LOCATIONS (COLLIER CO.):

Stuart used Waldrop data for remaining limerock capacity in four of the five mines in Collier County. Stuart identified five additional mines and estimated remaining capacity for four of them.

#### MINE LOCATIONS (CHARLOTTE CO.):

The following mines in Charlotte County were determined to have additional limerock capacity and were analyzed in the same manner as mines in Lee and Collier Counties:

- ▶ Earthsource Babcock Ranch
- ▶ Coral Rock Mine
- ▶ Jay Rock Mine
- ▶ Charlotte County Mine
- ▶ Halls Bermont Pit



### **MINE CAPACITY METHODOLOGY:**

Stuart assumed that remaining capacity of mines should be based on pre-mining estimates of the thickness of the rock layer at each mine.

This was done by examining all soil profiles submitted with rezoning applications or otherwise found in government files and using them to determine the average thickness of the limestone layer at each mine.

This average thickness was multiplied by the remaining acreage that had been approved for each pit, with the volume then converted to tons and to cubic yards.

### **MINING LOSSES:**

Stuart assumed that only 20% of the entire rock layer would be unusable due to losses during processing, mining, and trucking. This 20% reduction was applied to all mines in Lee, Collier, and Charlotte Counties.

### **CONCLUSIONS OF THIS ANALYSIS:**

- ▶ **Permitted mines in Lee, Collier, and Charlotte Counties can meet the regional demand for limerock through the year 2051.**
- ▶ **Lee County mines alone could meet the regional demand through the year 2042.**

### **SHORTCOMINGS IDENTIFIED IN THIS PEER REVIEW:**

- ▶ *Stuart overestimated the amount of limerock that will be needed in the region through the year 2040. The state's official population projections show a slowing rate of growth toward 2040, yet Stuart (like Waldrop) assumed the demand for limerock will vary only with the (increasing) total population each year, not reflecting in any way the (declining) rate of construction each year.*
- ▶ *Stuart overestimated the amount of rock that can be removed from existing mines by not relying on reliable survey data from all Lee County mines that identifies the actual depth of mining pits after extraction of usable limerock. Instead, Stuart substituted estimates of remaining mine capacity based on pre-mining estimates of rock thickness, minus 20% for anticipated losses during mining. Stuart ignored the Dover Kohl analysis, based on the survey data, that demonstrated actual reductions as much as double Stuart's 20% figure. (See page 11.)*
- ▶ *If the overestimates of both demand and supply were corrected, the Stuart approach would become the most accurate and timely assessment yet prepared. Although Stuart's conclusion about the abundance of supply over demand appears correct, the specific numerical conclusions for future years should not be relied on until the analysis is revised.*



## 8. Concluding Comments

All three limerock analyses discussed in this peer review generated estimates of the remaining capacity of approved mine pits:

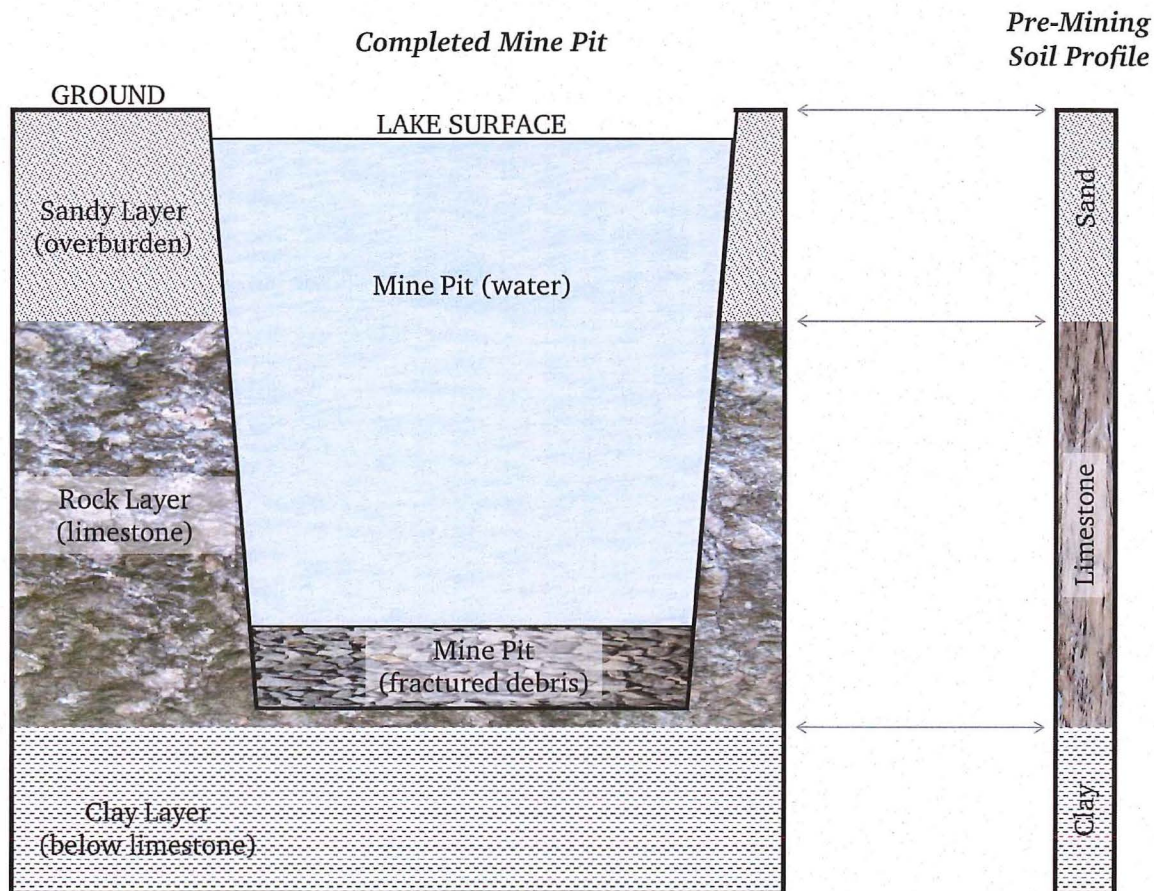
- Dover Kohl measured the thickness of limestone removed from existing pits and assumed the same thickness for future pits.
- Waldrop reduced the Dover Kohl thicknesses by 20% for future pits.
- Stuart did not use the Dover Kohl or Waldrop data; Stuart reduced the limestone thickness from pre-mining soil profiles by 20% for future pits.

The illustrations below help visualize these methodologies. The diagram on the left shows a cross-section of a completed mine pit, which appears from the surface as a large lake but which includes a layer of limestone debris at the

bottom of the lake. This debris is mostly limestone pieces that were not recovered by the draglines that are deployed deep underwater to remove rock after it is fractured by blasting. In mine pits that receive wash water from limerock processing plants, this debris also contains fine material that is discarded during the crushing, sorting, and washing phases.

Waldrop's 20% reduction of limestone thickness was incorrect because the thicknesses computed by Dover Kohl had already deducted the fractured debris at the bottom of mine pits.

Stuart reduced the total thickness of the limestone layer, as delineated in pre-mining soil profiles, by 20% to account for unrecoverable debris. This is below the typical industry reduction factors, which assume an additional 10% loss during processing. It is also lower than data produced by Dover Kohl that indicates total losses approaching 40% for existing Lee County mines.



Waldrop and Stuart used the same methodology to compute future demand for limerock in the seven-county region, assuming demand to be 9 tons per permanent resident each year.

This methodology overstates the demand for limerock in counties which, while continuing to grow, will be growing at declining rates.

The graph below illustrates the anticipated cumulative population of the seven-county region through the year 2040 with the solid upper line. The sequence of dots immediately below shows the (decreasing) number of residents being added during each five-year period through 2040.

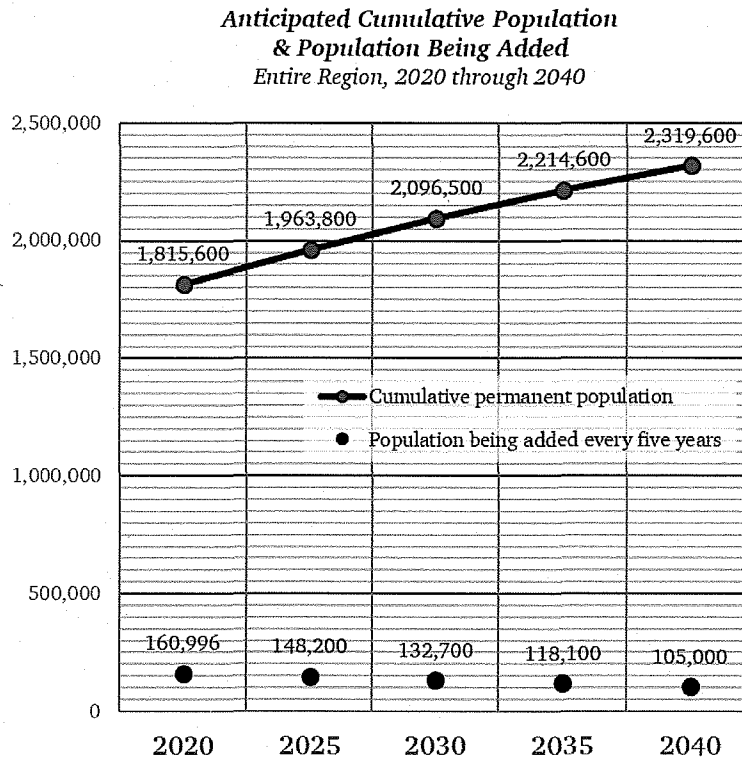
The demand for limerock and other building materials is highly sensitive to the construction that is needed to accommodate a growing population, as was demonstrated clearly by suspended mining operations during the recent recession.

The Dover Kohl analysis demonstrated the relationship between housing starts and aggregate production (limerock and sand) for the

entire state during every year between 1976 and 2007 (in Figure B-5).<sup>2</sup> The same pattern was apparent. As a result, the Dover Kohl analysis was not based solely on the total population in future years; it balanced that approach with demand based on anticipated construction to accommodate new residents.

When future demand is overestimated by a large margin, the corresponding conclusion will be that many more mines need to be approved in Lee County than will actually be needed, thus spreading the negative impacts of mining over a much larger area than is necessary.

Analyses of limerock demand and supply are complicated and can be controversial, but they are essential to ensure that regulations neither restrict a competitive mining industry from meeting actual demand, nor authorize an excessive number of mines that unnecessarily harm other legitimate and critical land uses in southeast Lee County such as public water supply, agriculture, wildlife habitat, and rural residential communities.



## Endnotes:

1. Lee Plan Policy 33.1.4 (Lee County Comprehensive Plan)
2. Appendix B (“Limerock Production & Demand”) in *Prospects for Southeast Lee County: Planning for the Density Reduction / Groundwater Resource Area (DR/GR)*, prepared for Lee County Department of Community Development in 2008 by a team led by Dover, Kohl & Partners. Available from: [www.spikowski.com/details/ProspectsForSoutheastLeeCounty.html](http://www.spikowski.com/details/ProspectsForSoutheastLeeCounty.html)
3. *Southeast Lee County Density Reduction / Groundwater Resource Mining Study*, prepared for the Lee County Department of Community Development in 2016 by Waldrop Engineering. Available from: [www.spikowski.com/details/ProspectsForSoutheastLeeCounty.html](http://www.spikowski.com/details/ProspectsForSoutheastLeeCounty.html)
4. *An Evaluation of SE Lee Co. DR/GR and Regional Lime Rock Mines: A Local and Regional Mine Analysis Using Mine Specific Geotechnical Reports and County Monitoring Reports*, prepared for Sakata Seed America, Inc. in 2018 by Stuart and Associates. Available from: [www.spikowski.com/details/ProspectsForSoutheastLeeCounty.html](http://www.spikowski.com/details/ProspectsForSoutheastLeeCounty.html)
5. Staff report for Lee County Local Planning Agency public hearing on January 28, 2019. Available from: [www.spikowski.com/details/ProspectsForSoutheastLeeCounty.html](http://www.spikowski.com/details/ProspectsForSoutheastLeeCounty.html)

## Dunn, Brandon

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**From:** Rohland, Stacey  
**Sent:** Tuesday, February 19, 2019 8:33 AM  
**To:** Loveland, David  
**Cc:** Dunn, Brandon; Ennis, Audra; Rozdolski, Mikki  
**Subject:** FW: [EXTERNAL] Please Prevent Mine Fast-Tracking

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Dobi Dobroslawa  
**Sent:** Saturday, February 16, 2019 12:27 AM  
**To:** Dist1, John Manning ; Dist2, Cecil Pendergrass ; Dist4, Brian Hamman ; Dist5, Frank Mann ; Dist3, Larry Kiker  
**Subject:** [EXTERNAL] Please Prevent Mine Fast-Tracking

Hello,

I support the Lee Plan requirements for needs analysis and inclusion of the overlay district in the process for land use determination. Fast-tracking mining applications is detrimental to our waters, our wildlife, and our quality of life. It is widely recognized that, by its very nature, mining is incompatible with other land uses. The entire community worked together to set up the compromises embodied in the Lee Plan. Protect the process by leaving the Lee Plan as it is.

Thank you.

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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.



## Dunn, Brandon

---

**From:** Rohland, Stacey  
**Sent:** Tuesday, February 19, 2019 8:33 AM  
**To:** Loveland, David  
**Cc:** Dunn, Brandon; Ennis, Audra; Rozdolski, Mikki  
**Subject:** FW: [EXTERNAL] No Mine Fast-Tracking!

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Finley B  
**Sent:** Saturday, February 16, 2019 1:02 AM  
**To:** Dist1, John Manning ; Dist2, Cecil Pendergrass ; Dist3, Larry Kiker ; Dist4, Brian Hamman ; Dist5, Frank Mann  
**Subject:** [EXTERNAL] No Mine Fast-Tracking!

Hi,

I support the Lee Plan requirements for needs analysis and inclusion of the overlay district in the process for land use determination. Fast-tracking mining applications is detrimental to our waters, our wildlife, and our quality of life. It is widely recognized that, by its very nature, mining is incompatible with other land uses. The entire community worked together to set up the compromises embodied in the Lee Plan. **Protect the process by leaving the Lee Plan as it is.**

Thanks!

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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.

## Dunn, Brandon

---

**From:** Rohland, Stacey  
**Sent:** Tuesday, February 19, 2019 8:34 AM  
**To:** Loveland, David  
**Cc:** Dunn, Brandon; Ennis, Audra; Rozdolski, Mikki  
**Subject:** FW: [EXTERNAL] mine on rt 82

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning Lee County Board of County Commissioners  
District 1  
239-533-2224

-----Original Message-----

From: lisazimmermann <[lisaleepet@yahoo.com](mailto:lisaleepet@yahoo.com)>  
Sent: Sunday, February 17, 2019 11:53 AM  
To: Dist1, John Manning <[Dist1@leegov.com](mailto:Dist1@leegov.com)>  
Subject: [EXTERNAL] mine on rt 82

Dear Mr. Manning,

I am a retired physician living in Gateway. I my home we need to wash our unused glassware that are in a closed cabinet every month because of the dust from our poor air quality. My husband, myself and many of my neighbors all suffer from nasal congestion which we do not have when we are not here.

Mining will only make this worse. The panthers already have their habitat encroached upon. We do not need to add more traffic to an already congested area. With more truck traffic more air pollution and accidents result. Nothing about this mining on state route 82 is good for your constituents.

Respectfully,

Dr. Lisa Petriccione

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**Dunn, Brandon**

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**From:** Rohland, Stacey  
**Sent:** Tuesday, February 19, 2019 8:34 AM  
**To:** Loveland, David  
**Cc:** Dunn, Brandon; Ennis, Audra; Rozdolski, Mikki  
**Subject:** FW: [EXTERNAL] Feb. 20 Meeting: Please vote NO

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Lena Neal  
**Sent:** Sunday, February 17, 2019 1:55 PM  
**To:** Dist1, John Manning ; Dist2, Cecil Pendergrass ; Dist3, Larry Kiker ; Dist4, Brian Hamman ; Dist5, Frank Mann  
**Subject:** [EXTERNAL] Feb. 20 Meeting: Please vote NO

The Board of Lee County Commissioners meeting on February 20 regarding the future of **lime-rock mining in Estero** .

Please do not take away the need for a needs analysis before new mines are approved . Keep the current overlay district that helps determine where new mines are located.

It is widely recognized that, by its very nature, mining is incompatible with other land uses. As a result of blasting, homeowners can face nuisances such as intrusive vibrations, excessive noise, dust pollution as well as reduced property values. Truck traffic can increase safety risks on roads that are already heavily congested. Mining can also harm natural resources by polluting our water supply, degrading wetlands, causing flooding, and destroying wildlife habitat.

Negative impacts from this proposal are not merely a long-term possibility. Rather, this proposal represents a threat that is here and now. In addition to streamlining future mining projects, this proposal will facilitate one of the two new mining projects currently pending with the County.

While not perfect, the current Lee Plan was carefully drafted as a thoughtful compromise to balance conflicting land uses. The general public, technical experts, consultants and key stakeholders were involved in developing the Plan over a series of 20+ workshops at a cost of \$1.6 million. Unlike this inclusive process, the current proposal is being needlessly fast-tracked despite widespread objections from various community group

Lena Neal

24360 Sandpiper Isle Way Unit 203  
Bonita Springs, FL. 34134

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**Dunn, Brandon**

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**From:** Rohland, Stacey  
**Sent:** Tuesday, February 19, 2019 8:47 AM  
**To:** Loveland, David  
**Cc:** Dunn, Brandon; Ennis, Audra; Rozdolski, Mikki  
**Subject:** FW: [EXTERNAL] Prevent Fast\_track Mine Approval

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** SLMighton  
**Sent:** Monday, February 18, 2019 11:09 AM  
**To:** Dist3, Larry Kiker ; Dist2, Cecil Pendergrass ; Dist1, John Manning ; Dist4, Brian Hamman ; Dist5, Frank Mann  
**Subject:** [EXTERNAL] Prevent Fast\_track Mine Approval

Dear Board of County Commissioners,

We are asking that you not approve changes to the Lee County Comprehensive Plan to loosen restrictions on mining in Lee County. We are not in support of your planned changes because there have not been sufficient public hearings to explain and to fully understand the environmental and social impacts. There is conflicting data on the very need and impact of these mines and this needs to be sorted out in a very public forum.

This decision is wrong-headed and will impact the quality of life in Lee County for decades to come. Please listen to the public that elected you and not the fast-track developers.

Stephen R. Mighton and  
Lynn M. Mighton  
20235 Cypress Shadows Blvd.  
Estero, FL 33928  
262-549-4918 (Lynn)  
239-849-4249 (Steve)

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## **Dunn, Brandon**

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**From:** Rohland, Stacey  
**Sent:** Tuesday, February 19, 2019 8:39 AM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon; Rozdolski, Mikki  
**Subject:** FW: [EXTERNAL] Proposed Changes to Lee Comprehensive Plan

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Thomas Ottele  
**Sent:** Monday, February 18, 2019 9:12 AM  
**To:** Dist4, Brian Hamman ; Dist2, Cecil Pendergrass ; Dist5, Frank Mann ; Dist1, John Manning ; Dist3, Larry Kiker  
**Subject:** [EXTERNAL] Proposed Changes to Lee Comprehensive Plan

Good day, gentlemen. My wife, Margaret, and I would like to inform you of our opposition to the proposed elimination of the requirement for a market analysis demonstrating the need for lime rock mining and urge you to support our position. We feel that this is important information lawmakers would deem absolutely necessary and want to closely evaluate in order to effectively determine the need for additional mines.

This is especially important in areas, such as the Corkscrew Road corridor, where mining is not only a most disruptive form of land use and but also threatens our already overburdened roads, water supply and storm water drainage.

While we realize that there are improvements slated for Corkscrew Road in the future, this corridor of the county continues to expand residential density exponentially. Completion of the current and near term approved residential construction projects with their additional traffic, the associated commercial traffic increase from typical maintenance and upkeep vehicles to support these residential areas, coupled with even the present level of commercial traffic from present mining operations will not only significantly increase but also strain the demands on roads, water supply and storm water drainage and strain capacity, even after proposed improvements.

As we are certain you are aware, current traffic conditions are very congested especially at certain times of each business day. And now, these conditions are exacerbated with ever-growing seasonal increases. There are considerable safety

concerns and these conditions are impacting the quality of life in this area. Additionally, this is not to mention any potential increase in commercial levels from current mining operations using this corridor as Southwest Florida continues expansion. This would add additional negative impact.

We trust that you, as a public servant, would want the best and most information available to you before making proposed changes in the future that will impact so many current and future residents, not to mention the potential environmental impact on our County and State. Deleting map 14 would be contrary to the overall Lee Plan as there would not be any overview of the affected area.

We appreciate the work that you do and thank you for your careful consideration of this proposed change and urge you to maintain this requirement.

Sincerely,

Thomas and Margaret Ottele  
20075 Eagle Stone Drive  
The Preserve at Corkscrew  
Estero, FL 33928

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## **Dunn, Brandon**

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**From:** Rohland, Stacey  
**Sent:** Tuesday, February 19, 2019 8:48 AM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon; Rozdolski, Mikki  
**Subject:** FW: [EXTERNAL] Proposed Changes to Lee Comprehensive Plan

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** Thomas Ottele  
**Sent:** Monday, February 18, 2019 9:12 AM  
**To:** Dist4, Brian Hamman ; Dist2, Cecil Pendergrass ; Dist5, Frank Mann ; Dist1, John Manning ; Dist3, Larry Kiker  
**Subject:** [EXTERNAL] Proposed Changes to Lee Comprehensive Plan

Good day, gentlemen. My wife, Margaret, and I would like to inform you of our opposition to the proposed elimination of the requirement for a market analysis demonstrating the need for lime rock mining and urge you to support our position. We feel that this is important information lawmakers would deem absolutely necessary and want to closely evaluate in order to effectively determine the need for additional mines.

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Sincerely,

Thomas and Margaret Ottele  
20075 Eagle Stone Drive  
The Preserve at Corkscrew  
Estero, FL 33928

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## Dunn, Brandon

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**From:** Rohland, Stacey  
**Sent:** Tuesday, February 19, 2019 12:23 PM  
**To:** Loveland, David  
**Cc:** Dunn, Brandon; Ennis, Audra; Rozdolski, Mikki  
**Subject:** FW: [EXTERNAL] Protect Lee County

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning Lee County Board of County Commissioners  
District 1  
239-533-2224

-----Original Message-----

From: Kim Rahe <[raheak@gmail.com](mailto:raheak@gmail.com)>  
Sent: Tuesday, February 19, 2019 11:12 AM  
To: Dist1, John Manning <[Dist1@leegov.com](mailto:Dist1@leegov.com)>  
Cc: Dist2, Cecil Pendergrass <[dist2@leegov.com](mailto:dist2@leegov.com)>; Dist3, Larry Kiker <[dist3@leegov.com](mailto:dist3@leegov.com)>;  
Dist4, Brian Hamman <[dist4@leegov.com](mailto:dist4@leegov.com)>; Dist5, Frank Mann <[Dist5@leegov.com](mailto:Dist5@leegov.com)>  
Subject: [EXTERNAL] Protect Lee County

Please stop the proposed amendments to the Lee Comp. Plan. Easing requirements for mining will place citizens in harms way along with irreversible damage to the County. No mines need be outside of Map 14.

Sent from my iPhone

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## Dunn, Brandon

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**From:** Rohland, Stacey  
**Sent:** Wednesday, February 20, 2019 1:21 PM  
**To:** Loveland, David  
**Cc:** Dunn, Brandon; Rozdolski, Mikki; Ennis, Audra  
**Subject:** FW: [EXTERNAL] Fast Track Approvals for DR/DG Mining Applications

Stacey Rohland  
Executive Assistant to Commissioner John Manning Lee County Board of County Commissioners  
District 1  
239-533-2224

-----Original Message-----

From: Rob Warner <[dfmwarner@aol.com](mailto:dfmwarner@aol.com)>  
Sent: Wednesday, February 20, 2019 11:45 AM  
To: Dist1, John Manning <[Dist1@leegov.com](mailto:Dist1@leegov.com)>; Dist3, Larry Kiker <[dist3@leegov.com](mailto:dist3@leegov.com)>; Dist4, Brian Hamman <[dist4@leegov.com](mailto:dist4@leegov.com)>; Dist2, Cecil Pendergrass <[dist2@leegov.com](mailto:dist2@leegov.com)>; Dist5, Frank Mann <[Dist5@leegov.com](mailto:Dist5@leegov.com)>  
Cc: Bob (Robert) King <[btnw@comcast.net](mailto:btnw@comcast.net)>  
Subject: [EXTERNAL] Fast Track Approvals for DR/DG Mining Applications

Commissioners, please stop this insane process of expansion to feed the lust to fill the Lee County coffers and election donations to your reelections with Mining companies expansion plans.

Reports have shown we have more than enough current mine rock to supply the area for over 20 years.

The dump truck traffic on both Alico and Corkscrew Roads have exceeded both weight restrictions and trip frequencies that the local and original design that was anticipated. It is impossible to either walk, ride a bicycle along either road due to the higher speeds of the large vehicles traveling in both directions and passing opposite each other.

Multiple accidents are now occurring with increasing frequency causing road closure for emergency services activities. These closures create additional problems for residents living beyond the current mining operations where again emergency services maybe required being delayed.

My recommendation as a 10 years resident of the Bella Terra community has shown that the fast track growth of the area requires that you Stand down on the request and be responsible to the local citizens rather than to the corporate growth activities.

We currently have or had an extremely well planned out DR/DG plan that is slowly and progressively being dismantled further reducing the Living potential due to some well intended property developers and land owners.

Please allow outsiders to respond by electronic response rather than to sit in a repacked meeting room with development supporters and listen to the locals who have to live with your decisions both good and bad.

Rob Warner  
21616 Belvedere Ln  
Estero, FL 33928-7337

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**Dunn, Brandon**

---

**From:** Rohland, Stacey  
**Sent:** Wednesday, February 20, 2019 1:21 PM  
**To:** Loveland, David  
**Cc:** Ennis, Audra; Dunn, Brandon; Rozdolski, Mikki  
**Subject:** FW: Proposed changes to CPA 2018-10014

FYI

Stacey Rohland  
Executive Assistant to Commissioner John Manning  
Lee County Board of County Commissioners  
District 1  
239-533-2224

**From:** David Martin  
**Sent:** Wednesday, February 20, 2019 10:34 AM  
**To:** Rozdolski, Mikki  
**Cc:** Dist1, John Manning ; Dist2, Cecil Pendergrass ; Dist3, Larry Kiker ; Dist4, Brian Hamman ; Desjarlais, Roger ; Loveland, David  
**Subject:** [EXTERNAL] Proposed changes to CPA 2018-10014

As concerned residents of S.W. Lee County I/we desire to express our disappointment and concern with the proposed changes to the requirements for Lime Rock Mining application. Namely, Amendment #1 deleting a Market Analysis Study and Amendment #2 deleting the Lime Rock Overlay Map 14.

It is very concerning that this type of proposal would be considered, developed, and brought forward to Lee County Commissioners for consideration. The Lee County Local Planning Agency must be focused towards strengthening requirements to protect our fragile, and already stressed, ecological environment rather than weakening them as this proposed amendment clearly does. This proposal makes no common sense at all except to favor a few large mining entities.

Please reconsider this unacceptable and poorly developed proposal and make appropriate actions that clearly represents the residents of south Lee County rather than lime rock mining corporations.

Respectfully, David Martin Estero

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