

**THE UNDERSIGNED ORGANIZATIONS AND INDIVIDUALS STRONGLY SUPPORT THE FRAMEWORK FOR DENSITY REDUCTION/GROUNDWATER RESOURCE (DR/GR) AREA COMPREHENSIVE PLAN AMENDMENTS AS DRAFTED BY DOVER KOHL AND MODIFIED BY LEE COUNTY STAFF (STAFF).**

Our coalition of stakeholders, representing diverse perspectives, offers our support for the DR/GR Comprehensive Plan amendments as proposed by staff. We believe that specific key elements included within the proposed amendments, as stated below, are critical to implementation of the DR/GR plan and we ask the Board of County Commissioners (BOCC) to approve the transmittal of these amendments:

**1. Future Limerock Mining Overlay**

These policies and accompanying map provide a well-defined process to direct future mining to locations where extraction of aggregate will not result in incompatibility with groundwater recharge, conservation and existing residential uses. We support staff's recommendation for the Future Limerock Mining Overlay. [Objective 30.1 and its implementing policies; Goal 10, Objective 10.1 and 10.2 and their implementing policies; Map 14, Including Area B in the Amended Map 14, which Contains the Eastern 240 Acres of the Galvano Property]

**2. Historic Surface and Groundwater Levels Overlay**

The Lee Plan currently requires all land uses within the DR/GR to be compatible with "maintaining surface and groundwater levels at their historic level" (FLUE Policy 1.4.5). The difficulty in applying this policy is due to subjectivity in defining "historic levels" and implementation has been hindered because no specific date for "historic" has been established. The proposed addition to this policy and accompanying map would establish 1953 as the benchmark for "historic" and delineate the surface and groundwater levels at this date. We support Dover Kohl and Staff's Definition of Historic Levels for the Surface and Groundwater Overlay. [FLUE Policies 1.4.5 and 1.7.14; Map 24]

**3. Priority Restoration Overlay**

Identification of lands for potential future restoration and/or acquisition is an important planning tool. The future restoration/acquisition areas and their prioritization as proposed by staff and Dover Kohl coincide with both currently-established public acquisition boundaries and lands that will provide additional environmental benefit and connectivity with public lands. We support inclusion of the Priority Restoration Overlay. [FLUE Objective 30.2 and its implementing policies; Map 25 (to be replaced by Page 4 of Map 1)]

**4. Transfer of Development Rights (TDR) Program Directing Mix-Use Development to Appropriate Locations**

We support the utilization of a TDR program directing development to designated Mixed-Use Communities, especially along SR82. As Lee County is beginning the 2035 Long Range Transportation Planning process, designation of these

development nodes will allow Lee County to focus future transportation dollars to roads that correspond to future planned development. Linking land use and transportation planning in this manner will greatly benefit the County. We support the TDR program directing development to Mixed-Use Communities, especially to the SR82 corridor. We also concur with staff and Dover Kohl in recommending the allowable increase in housing units from TDRs within the DR/GR be limited to 6,000 residential units.

[FLUE Policy 1.7.13; Objective 30.3 and its implementing policies; Map 17 as proposed by staff]

#### **5. Rural Community Designation at Appropriate Locations and Removal of Edison Farms as a Future Rural Community**

We support staff's recommendation to remove rural community designation from the Edison Farms site, based upon that site's location within the Corkscrew Regional Ecosystem Watershed (CREW) boundary, its status as primary panther habitat, the amount of wetlands it contains and the lack of infrastructure – roads, water and sewer. We also ask that an overall assessment of the costs and benefits of the Rural Communities designation be conducted to ensure this land use category can support the development it proposes to generate.

[Map 17 as proposed by staff]

In addition to these areas of specific support, we also have several suggestions that we believe will provide further structure to this DR/GR plan, and request that the BOCC consider the following recommendations during transmittal deliberation:

1. Strengthen FLUE Policy 1.4.5.2.c by Adding Language that Requires Density from Mine Pits be Extinguished and Density from Remaining Mine Acreage be Extinguished or Transferred to a Mixed-Use Community
2. Restrict Fill Dirt Pits Within the DR/GR to the Allowed Mining Areas of Map 14, the Future Limerock Mining Overlay
3. Include Language that Requires Minimum Standards for Zoning or Development Order Approvals for Mines and for All Required Monitoring Reports Within FLUE Policies 10.2.6 and 10.2.7
4. Include Language in Policy 30.2.3 to Provide a County Commitment to Seek Funding and/or Other Government's Approval for Acquisition, Protection and Restoration of the Lands Within the Priority Restoration Areas, as Depicted on the Proposed Amendment of Page 4 of Map 1

The DR/GR planning effort officially commenced with the release of the McLane Report in May 2007 and since that time has involved all stakeholders and interested parties, including environmental organizations, civic groups, landowners and mining interests. Over a two-year period, there were 23 official DR/GR advisory committee meetings and no less than 9 public hearings to solicit input on DR/GR planning. Countless technical reports and data sources were utilized in the creation of the DR/GR amendments, resulting in a proposed overlay that is comprehensive, data-driven, equitable and defensible. These amendments are proceeding based upon the BOCC-required timeframe for transmittal within this year's growth management plan amendment cycle.

The DR/GR amendments may be the County's last and best chance to provide a meaningful framework for planning the future of Southeast Lee County. We ask the BOCC to transmit the amendments as staff has recommended, with consideration of our additional four policy recommendations.

Brooks Concerned Citizens  
Calusa Group Sierra Club  
Conservancy of Southwest Florida  
Corkscrew Rural Community  
Estero Civic Association  
Estero Council of Community Leaders  
Pastor William J. Lytell  
Responsible Growth Management Coalition  
Rotary Club of Estero  
Stoneybrook Community Development District  
Wildcat Run Community Association

**Additional Background to Support Proposed Amendments Recommended by Staff and Supported by Our Organizations:**

**1. Support Staff's Recommendation to Designate a Future Limerock Mining Overlay [Objective 30.1 and its implementing policies; Goal 10, Objective 10.1 and 10.2 and their implementing policies; Map 14, Including Area B in the Amended Map 14, which Contains the Eastern 240 Acres of the Galvano Property]**

Our organizations strongly support the designation of Map 14 (Future Limerock Mining overlay), and the applicable policies, including those created in Objective 30.1 and Goal 10 of the FLUE. These policies and the accompanying map provide a well-defined process to direct future mining to locations where the extraction of aggregate will not result in incompatibility with groundwater recharge, conservation and existing residential uses.

A significant part of the DR/GR planning process included a thorough review of the current amount of limerock mined to date, the amount of mining permitted but not actively mined and the amount of limerock needed to fulfill Lee County's obligation for supply to the County and region through 2030. Detailed results are included within the County's *Prospects for Southeast Lee County* report and the numbers are conclusive. According to 2006 data, 3,597 acres of limerock have been mined and another 3,576 acres have been approved for resource extraction. To meet both County and regional needs through the planning horizon year of 2030, an additional 821 acres will need to be converted to mining.

In order to accommodate this additional acreage, Dover Kohl's proposed amendments have identified almost 4 ½ times the necessary amount of land – 3,707 acres – deemed appropriate for the location of new mines. Initial feedback from landowners and other stakeholders revealed concern about portions of the Tradeport area being included within the Future Limerock Mining overlay. In response, staff has removed Tradeport from the map while adding lands in other areas along the Alico corridor. However, based upon a request from the owners of the Galvano property, this portion of the Tradeport area has been reinserted into the Future Limerock Mining overlay. Our organizations support this reinsertion. While it is unclear the exact acreage for future mines included in staff's recommendation, it greatly exceeds the 821 acres required to meet the County and region's needs through 2030, and the 240 acres of the Galvano property could supply more than a quarter of this future aggregate demand.

Our organizations support staff's recommendation for Map 14 and the applicable Lee Plan policy amendments. We believe these are appropriate mechanisms to allow aggregate mining, while protecting other resources and land uses within the DR/GR from negative impacts. This specificity also provides assurances for landowners that the approval process for mining in these locations will be less cumbersome.

We also support the inclusion of the total acreage of allowable mines as part of the Future Land Use Map Table 1(b) "Industrial" category. Such inclusion will eliminate the potential for application submittals that exceed local and regional need within the 2030 planning horizon.

## **2. Support Staff's Recommendation to Designate an Historic Surface and Groundwater Levels Overlay [FLUE Policy 1.4.5 and Map 24]**

The Lee Plan currently requires all land uses within the DR/GR to be compatible with "maintaining surface and groundwater levels at their historic level" (FLUE Policy 1.4.5). The difficulty in applying this policy is due to subjectivity in defining "historic levels" and implementation has been hindered because no specific date for "historic" has been established. The proposed addition to this policy would establish 1953 as the benchmark for "historic" and Map 24 specifically delineates the surface and groundwater levels at this date. This benchmark is based upon evaluation of 1953 aerial photographs, which specify the conditions of the DR/GR prior to intensive manmade impacts to the land. Our organizations believe the proposed language for Policy 1.4.5.1 and 1.7.14, in addition to Map 24, will provide consistent guidelines for landowners as they determine appropriate uses for their property.

In response to the initial draft language for Policy 1.4.5, Lee County has received feedback from several stakeholders requesting additional specificity be included regarding the applicability and practicality of this requirement. In response to concerns received, staff has revised the proposed language in Policy 1.4.5.1 to add this specificity and clarity. These clarifications address many of the concerns raised regarding this new policy by including language that indicates the policy will be applied to new land uses requiring rezoning or a development order and that modeling must demonstrate no adverse impacts offsite.

The language also allows flexibility by including the ability for an applicant to submit additional information regarding the historic levels as part of the rezone or development review process. Our organizations support inclusion of these policies and Map 24 as proposed by staff.

## **3. Support Staff's Recommendation to Designation a Priority Restoration Overlay [FLUE Objective 30.2 and its implementing policies; Map 25 (to be replaced by Page 4 of Map 1)]**

Our organizations support proposed FLUE Objective 30.2 and its accompanying policies establishing the DR/GR Priority Restoration overlay and the accompanying Map 25. We believe that the concept of identifying these lands for potential future restoration and/or acquisition is an important planning tool, along with the prioritization given within Map 25, which is based upon the data collected and analyzed within Kevin L. Erwin Consulting Ecologists, Inc. *Ecological Memorandum of the Density Reduction/Groundwater Resource Area (DR/GR)*. These restoration areas coincide with both currently-established public acquisition boundaries, and lands that will provide

additional environmental benefit and connectivity with public lands. This overlay is an integral component of the proposed DR/GR plan and we request that it remain as currently proposed.

In addition, as implementation of the DR/GR amendments proceeds, specific policies to provide meaningful incentives for acquisition and restoration of these lands will be essential. We will continue to provide input and participate in the LDC process, where such specifics can be determined.

**4. Support Staff's Recommendation for the Creation of a Transfer of Development Rights (TDR) Program Directing Mixed-Use Development to Appropriate Locations [FLUE Policy 1.7.13; Objective 30.3 and its implementing policies; Map 17 as proposed by staff]**

Both Dover Kohl and staff have recommended creating Mixed-Use Communities, incorporating residential and commercial components, along the SR82 corridor within the Lehigh Acres area. Our organizations support the creation of these Mixed-Use Communities through a TDR program as a mechanism to protect wetlands and listed species, preserve agriculture and direct residential development to appropriate locations. While the specific mechanisms for implementing the TDR program will be refined through an upcoming LDC cycle, the framework for the program has been provided in the proposed Lee Plan amendments.

Our organizations also support directing development to the SR82 corridor, as proposed by staff in Map 17. By designating specific areas for future Mixed-Use Communities, Lee County will have the opportunity to plan for necessary road improvements and expansions to accommodate these compact developments. As the County is beginning the 2035 Long Range Transportation Planning process, designation of these development nodes will allow Lee County to focus future transportation dollars to these roads that correspond to future planned development.

In addition, we believe an upper limit for future residential units gained through the TDR program is critical. We support the establishment of 6,000 residential units as the maximum allow for TDR transfer within the DR/GR, with the ability for the remainder of the 14,358 TDR credits to be available for transfer outside the DR/GR.

**5. Support Staff's Recommendation to Allow Rural Communities at Appropriate Locations and to Remove Edison Farms as a Future Rural Community [Map 17 as proposed by staff]**

Within Objective 3.3 and Map 17, Dover Kohl has provided both the mechanism for a Transfer of Development Rights (TDR) program that allows density to be moved from one site to another, and the ability for large landowners to cluster their allowed density onsite to a smaller development footprint. This clustered development is referred to as Rural Communities.

While our organizations support TDRs for the DR/GR, we are concerned about the number of proposed Rural Communities and the lack of specific criteria used to determine appropriate locations for this designation. The establishment of a viable TDR program allows landowners to transfer density from more sensitive lands to areas appropriate for development. This provides a scientific basis for determination of both sending and receiving lands. However, the establishment of these Rural Communities, as proposed by Dover Kohl, is based not upon the environmental value of the lands, but on the desire to allow each large landowner a clustered residential development.

We support staff's recommendation that the designation of a Rural Community on the Edison Farms site should be removed, based upon that site's location within the Corkscrew Regional Ecosystem Watershed (CREW), its status as primary panther habitat, the amount of wetlands it contains and the lack of infrastructure – roads, water and sewer. This is clearly not a site where clustered development could appropriately be directed. We also share staff's concern that the easternmost Rural Communities along Corkscrew Road may not be feasible and should be further studied.

Thus, we believe an overall assessment of the costs and benefits of the entire Rural Communities designation should be conducted in the future to determine if it is practical to have this category or whether utilization of these lands to generate TDRs to transfer to the proposed Mixed-Use Communities would provide greater benefit.

**In addition to these areas of specific support, we also have several suggestions that we believe will provide further structure to this DR/GR plan, and request that the BOCC consider the following recommendations during transmittal deliberation:**

**5. We Recommend Strengthening FLUE Policy 1.4.5.2.c by Adding Language that Requires Density from Mine Pits be Extinguished and Density from Remaining Mine Acreage be Extinguished or Transferred to a Mixed-Use Community**

Dover Kohl acknowledged the need to establish a policy to determine how density of mined lands will be addressed. Their suggestion, within proposed FLUE Policy 1.4.5.2.c is to either extinguish residential density or transfer it to a property eligible through the TDR program. Staff has recommended that this language be struck and that post-mining uses be dealt with under Chapter 12 of the Land Development Code (LDC). Our organizations believe that while the LDC is the appropriate place to work through specific post-mine design standards, the Lee Plan is the necessary location to establish policy that either allows or denies residential land use after a mine is closed.

We recommend that Policy 1.4.5.2.c be reworded to state:

*Residential density of mined land will be extinguished for the acreage where mine pits have been dug. For all other acreage within the mine boundaries,*

*residential density will be extinguished unless it is transferred to an eligible property in accordance with Policy 30.3.3.*

The benefit of this language is threefold. First, it removed any ambiguity as to whether housing will be allowed on a former mine site. This is far superior to trying to negotiate such future uses on a case-by-case basis through application of LDC Chapter 12. Second, as Lee County should encourage maximum extraction of limerock within the Future Limerock Mining overlay, this policy will further such a goal by removing the ability of a landowner to prematurely close a mine and turn the site into a subdivision. Third, the intent of designating the Future Limerock Mining overlay is to establish an area where mining is allowed, while minimizing impacts to existing and future residential land use. If pits within this overlay are allowed to retain any residential density, the result will be homes around prematurely closed mines that are adjacent to active mines. This creates noise, traffic and quality of life incompatibility that we ask you to remedy by including our proposed language.

#### **6. We Recommend Restricting Fill Dirt Pits Within the DR/GR to the Allowed Mining Areas of Map 14, the Future Limerock Mining Overlay**

While the guidelines for the locations of new limerock mines are very specific in the proposed DR/GR amendments, regulations regarding fill dirt pits are much more ambiguous. The currently proposed Policy 30.1.5 states, in part:

*Shallow mines that produce primarily fill dirt should be sited as close as possible to locations of high demand to minimize the distance that fill material must be trucked to likely destinations.*

From the standpoint of impacts to the surface – vegetation removal, noise pollution and truck traffic – the impacts of any kind of mine are similar. And, as dirt mines can be the first step in a landowner’s request to dig deeper, the only location that will be acceptable for such use is within the Future Limerock Mining overlay. We recommend the following language replace the current applicable portion of Policy 30.1.5:

*Shallow mines that produce fill dirt within the DR/GR will be confined to those lands included within the “Future Limerock Mining” overlay as depicted on Map 14*

#### **7. We Recommend Inclusion of Language that Requires Minimum Standards for Zoning or Development Order Approvals for Mines and for All Required Monitoring Reports Within FLUE Policies 10.2.6 and 10.2.7**

The amendments contain proposed language within Policies 10.2.6 and 10.2.7 regarding natural resource extraction. Policy 10.2.6 states:

*The Land Development Code will establish the contents and frequency of monitoring reports from authorized mines. These reports **may** [emphasis added]*

*include surface and groundwater monitoring of water quality and quantity, the areas under active mining, the depths being mined, the quantity and type of mined materials, estimated reserves left for mining, and the annual volume, direction, and destination of the materials being transported. Reporting will include the active mining and processing area; the areas where reclamation has been completed; and the areas where invasive exotic removal is underway or completed.*

This is an extremely important policy because it establishes what, at a minimum, should be included in the monitoring reports. However, because the second sentence states that the reports “may” include these critical components, there is no assurance that such information will be included. The only items that are certain to be included are those listed in the last sentence, where “will” provides such a definitive requirement.

We recommend that the second sentence of Policy 10.2.6 be rewritten to begin:

*These reports will include surface and groundwater....*

We have the same concern regarding Policy 10.2.7, which is currently drafted to state:

*Zoning or development order approval **may**[emphasis added] require that significant adverse impacts identified during mining or post-mining will be subject to adaptive resource management whereby corrective measures can be guaranteed through conditions on the next phase’s approval.*

We recommend that this policy also be strengthened to begin:

*Zoning or development order approval will require....*

With the inclusion of these recommended changes we support these policies and believe they will ensure that future mining provides necessary data to help ensure environmental compatibility.

**8. We Recommend Inclusion of Language in Policy 30.2.3 to Provide a County Commitment to Seek Funding and/or Other Government’s Approval for Acquisition, Protection and Restoration of the Lands Within the Priority Restoration Areas, as Depicted on the Proposed Amendment of Page 4 of Map 1**

The importance of Priority Restoration areas has been established based upon data supporting the role of these lands in providing critical water recharge, habitat value and ecological connectivity. However, delineation of these areas on a map is not enough. Lee County must take an active role in ensuring the Priority Restoration areas are not only recognized but also pursued for acquisition, protection and restoration. As such, establishing funding mechanisms is a key element.

While the proposed language within Objective 30.2 establishes the Priority Restoration areas, there is no language to ensure Lee County's commitment to pursue funding sources and actively participate in ensuring the protection of these lands. We recommend language be added to Policy 30.2.3 that includes a clear mechanism committing Lee County to exploration of funding options for the Priority Restoration areas. A helpful resource would be the *Conservation Incentives Toolkit: Current Conservation and Incentive Mechanisms for Biodiversity Conservation*, prepared in 2008 for the Florida Fish and Wildlife Conservation Commission. This document provides a comprehensive list of various land acquisition and restoration funding opportunities.

After funding opportunities are identified, Lee County will be able to fulfill their commitment to pursue acquisition, protection and restoration of these identified Priority Restoration areas. We believe that including language within the Lee Plan establishes the County's commitment to both identify and pursue funding opportunities and is crucial to proper implementation of the DR/GR plan.