

**Lee County
Density Reduction/Groundwater Resource
Ad Hoc Steering Committee**



**Report to the
Board of County Commissioners
July 30, 2008**

Executive Summary

The Lee County Board of County Commissioners established an advisory committee to make recommendations on a study of the southeast Lee County Density Reduction/Groundwater Resource (DR/GR) area and related tasks. To date, the Committee has met 23 times starting in December, 2007 in order to evaluate information and present a thorough recommendation to the Board. As a result of those meetings, a preferred option is provided for the Board's consideration.

The Committee, by a vote of 9 to 4, recommends that the Board adopt a modification to the Scenarios presented in the Dover Kohl & Partners report entitled *Prospects for Southeast Lee County: Planning for the Density Reduction/Groundwater Resource Area (DR/GR)*. The modification is a combination of Scenario 1 and a portion of Scenario 3 (See attached map). The map could be considered as a Preferred Mining Area, with primary and secondary priority areas. Of the four votes against the modified scenario, two were in favor of Scenario 1 and two did not support any particular scenario.

Majority Position

The Committee supports the modified scenario for a number of reasons, including the following:

- The scenario encompasses impacted areas such as existing mines, as well as portions of partially permitted mines.
- It allows for expansion of mines in contiguous areas and use of existing mine infrastructure in lieu of establishing mine activity in new or more distant areas, thus concentrating mining in the traditional mining corridor.
- It provides protection of important water resources, habitat and wildlife.
- It provides a means to obtain sufficient aggregate to meet the needs of Lee County and the traditional market area through the year 2030.
- It provides a balanced and sustainable mix of mining, agriculture, preserved and restored lands, and rural quality of life.

The Board should consider the need to revise the adopted scenarios following a thorough review of the surface and subsurface water modeling efforts currently underway.

The Committee members favoring this scenario also believe other changes should be implemented. These changes include (1) more detailed pre-permit planning on the need for commercial mining, mining partitions, cell size, and assessment of cumulative impacts; (2) greater habitat and wildlife protection; (3) evaluation of cumulative impacts of all land use proposals; and (4) more aggressive use of the transfer of development rights (TDRs) concept, emphasizing transfers to areas outside of the DR/GR, and to urban areas with high density transportation corridors. The opportunity will exist to address these and other areas of concern as the proposals and data implementing the scenario become more refined, but the Committee wants the Board to know their principal areas of concern.

The Committee believes the Dover Kohl team did an excellent job. Consequently, the Committee adopts their principal recommendations and supports the emphasis placed on restoration of historic flow ways, water quality, and habitat protection. The Committee also believes the balance struck with respect to the sustainable mix of mining, agriculture, preserved and restored lands, and other rural land uses is also appropriate. In order to accomplish these ends, the Committee believes it is essential that a preferred mining area be established, and recommends the Alico corridor identified by Dover Kohl, with the committee's modifications as the appropriate location.

The entire committee agreed on many principles, including the important goals of conservation and protecting water resources. The differences expressed between the majority and minority opinion are embodied in the methods each group would use to achieve these goals.

Minority Positions

There are two minority opinions on the Committee. One opinion recommends considering rock as a state resource and encouraging responsible mining throughout the DR/GR to encourage large landowners to implement conservation measures to help the entire ecosystem. The other minority opinion recommends Dover Kohl Scenario 1 which concentrates mining in the traditional corridor as the best means of restoration of flow ways connecting to the Estero River and Estero Bay, maintaining the integrity of the entire system as well as the county's important tourism economy. Additional explanation of these two positions is provided later in this report.

Other Action

The Committee reviewed three other reports but did not make specific recommendations due to time constraints. They include: Land Development Code Amendments submitted by staff to the Committee on July 16, 2008; the David Douglas Associates, Inc. report entitled *Lee County Truck Impact Evaluation, July 2008*, received July 16, 2008; and the *Ecological Memorandum of the Density Reduction/Groundwater Resource Area* by Kevin L. Erwin Consulting Ecologist, received July 30, 2008.

Introduction

The DR/GR Ad Hoc Steering Committee was established by the Lee County Commission in a resolution adopted on November 20, 2007. At that time the Committee was charged with seven duties and responsibilities, as follows:

- a) *Review the proposed options for land use scenarios and make recommendations to the County Commission.*
- b) *Review mining issues and regulations and make recommendations to the County Commission.*
- c) *Review other related items as necessary and as brought forward by the staff, and make recommendations to County Commission as needed.*
- d) *Committee members must comply with all applicable requirements of Florida Statutes Chapter 112, Code of Ethics for Public Officials, including but not limited to voting conflicts.*
- e) *The Committee is strictly advisory in nature, and may not make decisions with respect to Lee County policies.*
- f) *The Committee is subject to financial disclosure.*
- g) *The Committee will sunset when the study has been presented to the County Commission.*

This report is presented in response to items (a), (b) and (c) above, and in compliance with items (d), (e), (f) and (g).

Background

In 2007, the Board of County Commissioners, recognizing the importance of building on past efforts to assess and understand the DR/GR and the resources to be protected, contracted with McLane Environmental, LLC, to conduct a *Review and Summary of Studies Containing Information Relating to Density Reduction/Groundwater Resource Lands*.

The McLane review served as the beginning point for the Ad Hoc Committee and pointed out significant issues for consideration. Among the conclusions reached by the McLane review are:

- “The studies, when viewed as a whole, reveal that the resources and ecological systems within the DR/GR area are interrelated in complex ways.
- The functioning of the DR/GR environmental system (both in terms of individual resources and interrelated systems) can be adversely impacted by certain land uses.
- There is a potential for balance between use of the land and protection of the ecological and groundwater resources, with the nature of that balance requiring careful consideration of the DR/GR information and scientific data contained in the studies reviewed as part of this project and other similar studies.”

The McLane review finishes by noting that the DR/GR is an intricate mosaic of landscapes that serves a number of natural resource functions that would be difficult and expensive to replicate if they were lost.

Pursuit of Duties and Responsibilities

Throughout the process, the Committee maintained a focus on the Duties and Responsibilities established for this effort by the Board of County Commissioners.

To help with the charge with regard to the review of land use scenarios, the Board contracted with Dover Kohl & Partners to conduct a planning process to "...create three different land-use scenarios for the future of the DR/GR area to move toward a sustainable mix of mining, agriculture, preserved and restored lands, and other rural land uses." On August 1, 2008, Dover Kohl will present to the Board a thorough accounting of this process and the three scenarios that resulted.

During the public participation element of the Dover Kohl planning effort, it was learned that nearly 80% of the public and stakeholders who took part indicated that the first priorities should be conservation and groundwater and surface water protection. These priorities were revalidated by the Committee.

The Committee identified four key outcomes necessary to sustainability of the resources in the DR/GR.

- Protection of surface and groundwater (with historic flow ways and an adequate supply of clean drinking water)
- Protection and restoration of ecosystems (including wildlife habitats)
- Continuation of economic viability (tourism industry and adequate aggregate resources)
- Protection of community character (rural quality of life and sustainable agriculture).

Recommendations

The committee reviewed the three scenarios presented by Dover Kohl. The majority of committee members recommend an alternative scenario which is a combination of Scenario 1 and a portion of Scenario 3, with modifications. This scenario is depicted on the attached map. The minority members did not agree with this selection for the reasons outlined in this report.

Majority Position

The Committee believes that the Dover Kohl team did an excellent job. Consequently, the Committee adopts their principal recommendations and supports the emphasis placed on restoration of historic flow ways, water quality, and habitat protection. The Committee believes that the balance struck with respect to the sustainable mix of mining, agriculture, preserved and restored lands, and other rural land uses is also appropriate. In order to accomplish these ends, it is essential that a preferred mining area be established. The Committee recommends the traditional mining Alico corridor with the committee's modifications as the appropriate location.

The Committee also recommends changes be added during implementation of an alternative, including the following:

- a) More detailed pre-permit planning on the need for aggregate mining, mining partitions, cell size, relationship to topography, reclamation and impacts. Within the preferred mining areas, issuing of permits should be phased to reflect anticipated demand for the product. Both primary and secondary mining areas (limited to areas already impacted) should be established.
- b) Greater habitat and wildlife protection. The Dover Kohl report puts top priority on preservation and restoration of historic water flows, but the Committee would like to see even more emphasis on both wetland and upland wildlife corridors, and listed species habitat. All uses must be ecologically sound.
- c) Evaluation of cumulative impacts, preferably prior to or in conjunction with zoning or permitting approval. This would apply to all uses, not just mining.
- d) More aggressive use of the transfer of development rights. This should particularly include transfers outside of the DR/GR, not limited to unincorporated areas. Transfers to areas best served by transportation hubs are most desirable.

Other areas of concern, suggestions, and topics of debate are listed in the Appendix. The very limited deadline for this report did not allow this listing to be integrated into the recommendations, so they are offered for later consideration.

Minority Positions

There are two minority opinions. One recommends considering rock as a state resource and encouraging responsible mining throughout the DR/GR. The other recommends Dover Kohl Scenario 1, concentrating mining in the traditional mining area. Each position is explained below.

Position A – Mining Throughout the DR/GR

- Eliminating mining from the Corkscrew Road area does nothing to provide large landowners with incentives to help achieve these important goals of the DR/GR. In fact this action discourages large landowners from implementing conservation measures that would help the entire ecosystem. Because of the relative economic value over other land uses, mining operations have greater potential to provide land for the restoration of historic flow ways and wetlands, establish wildlife corridors and provide for public-supply well fields than most any other businesses.
- The assumption that there is a sufficient supply of aggregate to meet our needs is incorrect. The Florida Department of Transportation as well as the Strategic Aggregates Study have pointed out that there is a critical shortage of DOT-quality material.
- The assumption that the sale and distribution of aggregate products extracted from the DR/GR can be geographically limited is legally unenforceable and a dangerous precedent to set.

- The assumption that mining is the primary reason for degradation of water flows and wetlands in the DR/GR and the Estero River Basin is incorrect. Studies presented to the committee point to reduced flows as a cumulative result from the construction of the 10-mile Canal, Alico Road and Corkscrew Road, and the rerouting of Lehigh Acres drainage away from the DR/GR, farming and mining.
- Mining and the natural environment can co-exist, and have for decades, with compliant, responsible mining practices and improved design. By consolidating mining to one area, any negative impacts are multiplied for that area while the cumulative impacts are lessened when mining is spread throughout the DR/GR in a responsible way.
- FDOT quality rock exists in the DR/GR and is one of only three known large deposits throughout South Florida. Removing this critical reserve from the supply chain will result in damaging the quality of life because of increased road-building and construction costs resulting from supply shortages that could have been avoided.
- Truck traffic and fossil fuel use will increase when rock is imported into Lee County from Tampa and Miami.
- If mining is forced out of the area where the right rock is, Lee County is not saving this supply of rock for the future but is forever eliminating it from the marketplace.

Position B - Dover Kohl Scenario 1

- Lee County should adopt Dover Kohl Scenario 1. This is the only scenario that ensures restoration of flow ways to the Estero River and Estero Bay. Flow ways cannot be recreated through mine pits or impacted area adjacent to mine pits. Any Future Land Use or Zoning Map that allows mining and mining impacts near conservation areas and important flow ways creates exploitable contradictions in policy.
- The Lee County Visitor and Convention Bureau states that our beaches and ecology are the main draw of Lee County. To the extent that Lee County relies on tourism dollars by attracting visitors that enjoy the Estero Bay Aquatic Preserve and other nearby ecological resources, the viability and sustainability of the DR/GR is tied to Lee County's economic capability to attract tourism income.
- A primary focus of the Committee throughout the weeks of discussion was on DR/GR sustainability, with all uses subservient to maintaining ecological balance. The Scenario selecting and LDC changes, while made in good faith with due consideration, focus on short term, immediate resolution thinking. Lee County should recognize the need for ongoing long term planning and analysis. To this end Lee County should implement a Stewardship policy to strategically manage all the resources, ecological systems, and land uses within the DR/GR on an Enterprise level.
- Successful Management of the DR/GR requires a supporting performance measurement system. These measurement outcomes provide information for learning how to improve future actions by all DR/GR users. Attributes of the performance management system should include a uniform and consistent set of performance measures for users and

permittees (i.e. traffic, aggregate, surface and groundwater modeling, etc.); focus on overall long term DR/GR effectiveness in addition to individual permittee effectiveness; cumulative impacts analysis; and the use of some type of systems analysis to identify cause-effect, interactive relationships across systems, DR/GR uses and regional areas of impact.

- Traffic studies should consider the maximum truck trips allowable per mine. In 2003, one resident -- a retired police officer living on East Corkscrew Road -- counted 1,436 truck trips in an area near a mine whose TIS indicated 414 truck trips per day. Unless this type of variability is considered, LOS data and impact to passenger traffic is incomplete.

Other Action

The Committee reviewed three other reports but did not make specific recommendations due to time constraints. They include: Land Development Code Amendments submitted by staff to the Committee on July 16, 2008; the David Douglas Associates, Inc. report entitled *Lee County Truck Impact Evaluation, July 2008*, received July 16, 2008; and the *Ecological Memorandum of the Density Reduction/Groundwater Resource Area* by Kevin L. Erwin Consulting Ecologist, received July 30, 2008.

Conclusion

The Committee recognizes that the adoption of a scenario is only one step in the progression of planning for the DR/GR. Much work remains to be done, and will more finely tune the details of broad decisions now being made. Nonetheless, due to the press of time resulting from deadlines set on the Committee's work, the Committee was unable to fully address and resolve as many issues as we would have liked. The Conservancy of Southwest Florida, for example, provided the Committee and staff with extensive recommended Comprehensive Plan as well as Land Development Code Amendments that we were unable to address within the available time period. Numerous other topics, recommendations, discussions, and documents were submitted to the Committee for consideration during the course of the proceedings. They are available in the county records and website:

http://www.lee-county.com/dcd/CommunityPlans/SELC_DRGR/subcommittee.htm

The members of the Committee thank the Board of County Commissioners for this opportunity to serve our community. We look forward to continued opportunities to participate in the planning process as it relates to the DR/GR.

Committee Vote

This report was adopted by the Committee on July 30, 2008:

Majority Position

Brenda Brooks (Co-chair)

Phil Buchanan

Carie Call

Don Eslick

Cullum Hasty (Co-chair)

Kevin Hill

Jason Lauritsen

Scott McCaleb

Linda Tanner

Minority Position (mine throughout the DR/GR)

Richard Friday

Kirk Martin

Minority Position (Dover Kohl Scenario 1)

Steven Brown

Peggy Schmidt

Members Dennis Gilkey (one of three co-chairs) and Don Troyer resigned from the Committee prior to votes being taken.

APPENDIX

ITEMS FOR FURTHER CONSIDERATION

- The county should consider incentives to mine out an approved mine before any other land use is permitted.
- Compatibility of future residential near the airport
- Compatibility of residential with restored water levels.
- Proposed mixed use communities too small – not enough infrastructure to make them viable, and therefore it is questionable as to whether they would be successful
- Planning horizon may be long range, but permitting horizon needs to be no more than five years
- It is not clear what the rationale is for prioritization of restoration levels in the Dover Kohl & Partners report. The levels should change from four to one.
- Lee County policy and strategy should recognize that restoring flow way function to historic levels is necessary. Lee County must remember that because there is little topographic change within the DR/GR, small changes, even roads, ditches, and culverts, can dramatically affect the flow of water.
- Agriculture needs to be integrated and provided incentives for retention.
- Take steps to reduce demand for aggregate through such mechanisms as strengthening the focus on infill of currently urbanized areas
- Mining needs to be done differently in the future, pointing to the need for more assertive regulation and enforcement, including the provision of an analysis of potential cumulative impacts prior to permit issuance.
- Infill must be addressed and the protection of rural residential lifestyle must be assured.
- Lee County policy should recognize situations where larger stretches of natural lands could be preserved and even fully restored in exchange for allowing isolated wetlands to be removed in urban or industrial locations including those that would increase the output of approved limerock mines.
- Lee County should fully utilize the limerock resources in existing disturbed areas before spreading out into more pristine environments. At present limerock mines in the DR/GR are generally prohibited from disturbing larger wetlands, thus creating irregularly shaped mining pits. The remaining wetlands get cut off from their natural water sources (above ground and below ground) and cease to function as they once did and the mining industry is prevented from fully concentrating their area of disturbance by these

requirements. This policy should be changed in order to concentrate mining in a smaller area of the DR/GR, thus assisting the County to achieve its need to conserve the natural resources located in the DR/GR.

- Lee County should create an advisory committee of state researchers and local farmers to identify methods of encouraging the continuation of ecologically balanced agricultural operations and identifying better ways to store and treat surplus water, thus improving the local ecology.
- Lee County should adopt new light-imprint development standards which would apply to all aspects of development, from road construction to house placement and design to septic system location and configuration on all future development within the DR/GR.
- Lee County should adopt regulations that would permit fill dirt operations in more locations outside the DR/GR in order to reduce transport costs and minimize wear on the county's roadways. The County should authorize the extraction and transport of fill material as an interim use in the Future Urban Areas provided that the all other requirements are met.
- Lee County should ensure that post-mining land uses and site design are appropriate to their location and to the needs of the community. Special emphasis should be placed upon future recreational use and the inclusion of littoral shelves to support vegetation and native fish populations.
- Lee County should continuously explore alternative sources of materials for roads and construction, as well as materials that would extend the lifetime of roads, including expanded use or recycled materials.
- Lee County should implement a policy where transportation projects follow, not lead, land use policy. Too often large-scale transportation projects are planned and executed before a clear land-use policy is established for the surrounding areas. It has been repeatedly demonstrated that aggressive expansion of roadways can actually induce further travel demand. In addition Lee County should begin designing existing and planned roads for multi-modal use.
- Coordinate DR/GR planning effort with the Lehigh Acres planning effort for greater regional benefits.
- Conduct an economic study and modeling to better understand the economic implications of land use changes within the DR/GR.
- Lee County policies as well as best management practices (BMPs) including the importance of good daily health, safety and environmental stewardship necessary to protect Lee County's drinking water should be communicated to all owners and operators within the DR/GR. Specifically, Lee County needs to develop fact sheets containing BMPs for development, individual homes, mining, restoration and more.

