



May 13, 2008

Mary Gibbs, Community Development Director for Lee County  
Po Box 398  
Fort Myers, FL 33902

RE: Lee County DR/GR – Dover Kohl “Preferred Mining Plan”

Dear Mary:

First, let me say that I have the utmost respect for the consulting team working on the DR/GR studies. Dover Kohl’s team has been very professional and thoughtful as they have wrestled with some very difficult issues. They wrapped up their planning/visioning meetings on April 24<sup>th</sup>, and at that time presented various summaries of meetings, ideas, and preferences. The latter portion of the presentation was focused on what Dover Kohl referred to as a “Preferred Mining Plan”.

The “Preferred Mining Plan” as presented, which clusters all future mining north and east of Alico Road, and around the airport, assumes that it is better to cluster all the mining in one area, versus distributing the mining along Corkscrew Road and east of the major wetland strand. Although it is an interesting idea, it is a flawed concept that the County should not embrace without much greater scrutiny and analysis. While the concept may seem plausible on the surface, in my view it was based on too much opinion and speculation, but not on facts, science, economics or legal considerations, as I will explain further below.

The presentation on April 24 was conducted by Victor Dover and Dan Kerry, an environmental planner who works on the project with Dover Kohl. Mr. Kerry’s opinion was that the mining lakes, even when completed, will draw down the water table, even though there is no outfall, for as much as a mile from the excavations. Although this seemed to be a major premise for the “Preferred Mining Plan”, this has not been scientifically established for the down-gradient side of enclosed lakes, and is contradicted by other experts in wetland hydrology and hydrogeology. Other key points are as follows:

1. Most of the area of the “preferred plan” is within Primary Panther Habitat, which has been a scientifically and legally contentious issue relative to environmental permitting in Southwest Florida. By comparison, it appears that much more of the potential mining area along Corkscrew Road would be in Secondary Panther Habitat. The preferred mining concept is based on the unsubstantiated premise that there could be an exception to the federally endangered species criteria, by allowing more impact to primary habitat than other alternatives.



2. The "preferred plan" presumes that state and federal agencies would also concur that it is better to destroy more wetlands in one concentrated area, versus destroying less wetlands by distributing the impacts by alternative plans. The "preferred plan" apparently assumes (without verification) that the state and federal agencies would modify their permitting criteria to accommodate this plan.
3. The consultants made the assumption that the quantity of rock demand would be the same for the next 25 and 50 year increments as the last 25 years, even though information is available that strongly indicates that the amount of aggregate demand could increase significantly in future years, based on regional growth, hurricane codes, residential densification and redevelopment. Further, if we do limit the supply of aggregate from our local resources, there needs to be an analysis of the traffic impact of trucking in our aggregate from other sources of supply outside of Lee County.
4. There was no analysis of the actual plant capacity, which will soon be the limitation for rock aggregate excavation in the Lee County DR/GR. It had been explained to the consultants that within the next 15-20 years 3 major rock aggregate plants will be exhausted from their current supply, leaving only the Florida Rock plant in operation, if new major plants do not come on line in different areas. Under this "Preferred Mining Plan", it is possible that there could be significantly less supply available from future rock aggregate suppliers compared to the current multiple plants now operating. A reduction in the number of suppliers and the corresponding reduction in competition could also have anti-trust implications for those suppliers remaining in business.
5. There was no analysis presented of numerous opportunities that are available by incorporating mining lakes into the landscape, to facilitate water supply, water storage, flow-ways, recreation, and reclamation. Also, there is a great potential for historic drainage patterns to be re-directed from the southern portion of Lehigh Acres to relieve flooding, insufficient retention, and to re-hydrate wetland systems in the DR/GR.
6. Rock excavation was shown on the "preferred plan" outside of the DR/GR, into areas around the airport that are approved and planned for economic diversification and development. In addition, concerns regarding mining in close proximity to the airport runways do not appear to have been given adequate consideration.
7. There was no supporting information that there is high-quality aggregate rock available in the areas proposed on the Preferred Plan, whereas there is reliable information that high quality aggregate rock is available in areas where permit applications are either pending or proposed. In fact, there is supporting information that some of the areas of the "preferred plan" do not have good rock resources.
8. There was very little regional perspective regarding the economics, the environment, agriculture and other rural land use issues in surrounding counties. There are extensive areas in the region for agricultural production, but not so for aggregate production.



9. The "Preferred Plan" assumes that mining companies can economically go back and excavate the small areas left, take out wetlands and squeeze every bit of resource out of the "traditional mining area". That is not a realistic assumption under current standard mining practices.
10. There was no analysis of economics as to whether this is a feasible plan for implementation by the mining industry or by land owners, nor any analysis of what the adverse economic impact there would be for the large land owners along Corkscrew Road, many of whom have significant and valuable aggregate resources underlying their lands.
11. There was no analysis of legal sufficiency of this concept regarding the taking of property rights, and likely Bert Harris claims that would be spawned if the concept is adopted by the Board of County Commissioners. Diminution of property values in excess of \$1 billion could occur along Corkscrew Road if mining is removed as an allowable land use.

Additionally, Dover Kohl indicated that, although agriculture is desired for continuation, it was recommended that there should be additional local regulation of agriculture. There was no basis for that recommendation as far as any environmental impacts that have occurred due to agriculture, and certainly it goes against the grain of wanting to keep agriculture, by adding local regulations. On the other hand, there is no mention of upgrading septic tank standards for rural residential uses within the influence areas of public wellfields.

Added to the above is that there were statements made that the "last thing we would want" would be the 1 unit per 10 acre density that is currently allowed in the DR/GR, as that would be rural sprawl and fragment the landscape. Further, no TDR program has been proposed that would be of a feasible nature to provide incentives or compensation, only additional regulations. So what this means is that along Corkscrew Road, the property owners only have 2 choices; one being conservation, and the other being agricultural uses, but with more regulations. I do not think that the county can afford the type of adverse claims that would result from this approach.

The "preferred plan" should have been presented with a series of possible alternative mining plans that had different opportunities and challenges, but could be reviewed further as to feasibility. There is a concern that there was a pre-conceived bias to go in this direction, and that now the DHI water modeling will attempt to justify the "preferred plan".

This bias is further evidenced by the "Work in Progress Survey" handed out at the April 24 session. Questions are very leading, such as "Should Lee County protect water resources by discouraging the disturbance of large stretches of natural lands east of the Flint Pen Strand?", and "Should Lee County approve new and expanded mines along the Alico Road industrial corridor and near the regional airport instead of allowing new mines everywhere in the DR/GR area?" These are baited survey questions intended to elicit responses that support the "Preferred Mining Plan".




The county and consultants should step back and reconsider this “preferred concept”, taking into account the above factors. Also, find attached my list of opportunities that have been presented in two different letters to the Lee County previously. The opportunities are based on finding win-win solutions involving the mining industry, the environment, water supply and local residents. As discussed previously by the DR/GR Advisory Committee, that process probably requires a conflict resolution process versus a community planning process.

Unfortunately, the “Preferred Mining Plan” will only cause further polarization, and does not foster win-win solutions. It will likely result in a contentious litigation environment, possibly worse than we have seen up to this point. Let’s don’t go there.

I would appreciate your distributing my comments to the DR/GR Advisory Committee, and I look forward to continuing to help create a workable solution.

Sincerely,

  
Dennis E. Gilkey  
CEO and Managing Principal

Attachment

## **DRGR Opportunities**

Dennis Gilkey 4/7/08

- Re-establish ecological systems and connections (Green Plan)
- Significantly increase the amount of conservation lands
- Integrate flow ways, storage and water supply with mining plans (Blue Plan)
- Establish best management practices for development, mining and restoration
- Provide incentives for cluster density with bonuses for preservation, such as transfer of development rights and other economic incentives
- Minimize impacts to current local residents through buffering, traffic enforcement and best management practices
- Provide improved roadway circulation for area-wide improvement of economic development safety and hurricane evacuation
- Develop infrastructure as necessary with known and predictable land use consequences
- Provide funding through overlay district, impact fees, and hauling fees
- Protect private property rights, while providing environmental and economic integrity for the ultimate uses in the DRGR