

# eYes On Conservation 20/20 Coalition

August 19, 2019

Lee County Board of County Commissioners  
Via email

## **Re: Proposed Troyer Brothers Mine, CPA2016-00006**

Dear Commissioners:

I provided this testimony during the Zoning Examiner Hearing for the proposed project in 2018 as the Environmental Director of the Estero Council of Community Leaders and as a coalition member **eYes on Conservation 20/20**.

The mission of our Coalition is to monitor the activities of Lee County as they relate to the purchase and management of conservation lands as well as important issues relating to growth and the threat to our water supply, water management, wildlife habitat, and conservation of natural resources

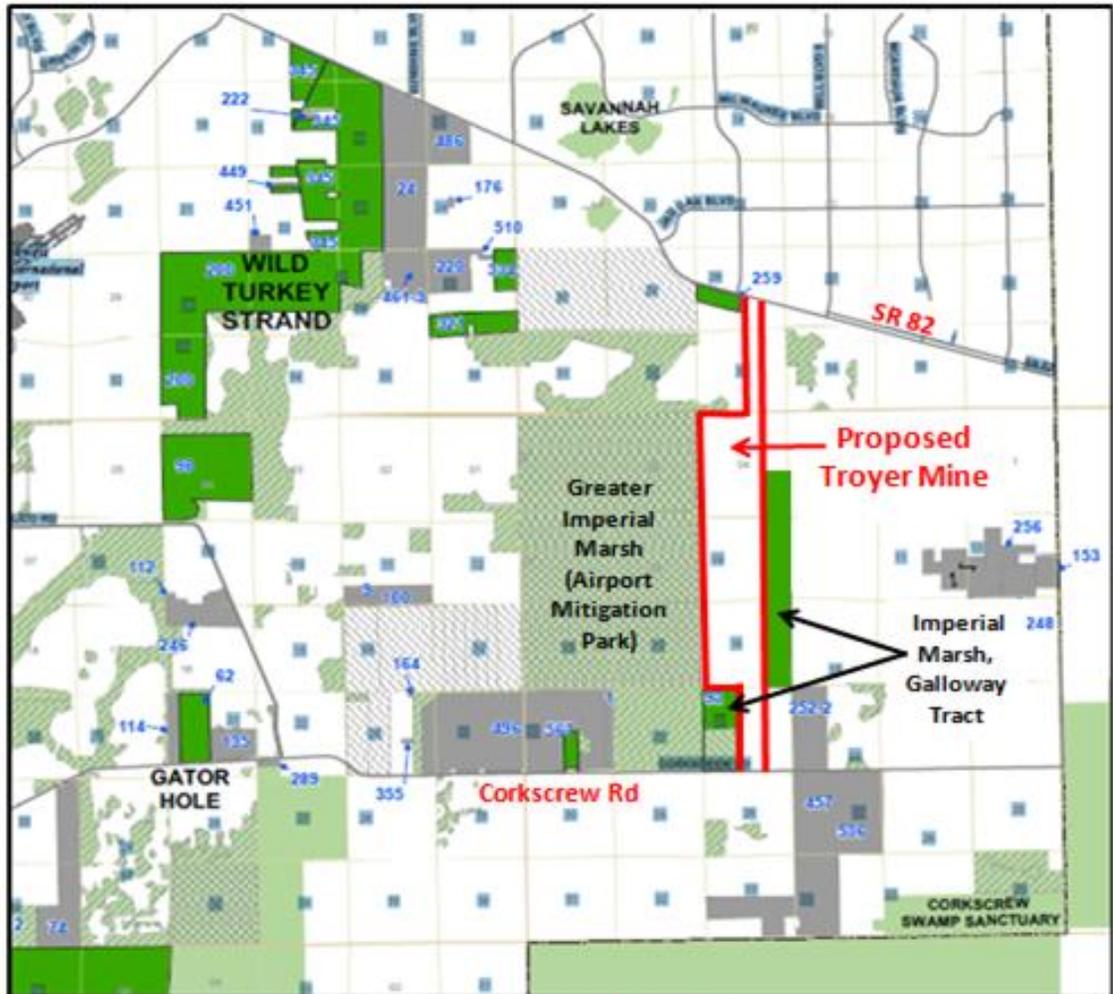
This proposed mine is located contiguous to the east side of Lee County's Greater Imperial Marsh aka, Airport Mitigation Park (4,177 acres) and contiguous on its east and south sides to the north and south parcels of Lee County Conservation 20/20 Program's Imperial Marsh Preserve, Galloway Tract (644 acres). These county conservation lands and the Troyer mine are shown on the following map below. We note that the Galloway Tract alone cost Lee County \$13.4 million to purchase in 2000. Considerable restoration and maintenance costs have also been incurred by the County since that purchase.

Greater Imperial Marsh and the Galloway Tract are a valuable and environmentally sensitive mosaic of cypress swamps, pine flatwoods, oak hammock, freshwater marsh, and pasture lands that serve as important habitat for a variety of birds, mammals, especially Florida panthers, reptiles and amphibians. Most importantly they are key components of the conservation lands in the DR/GR and help preserve our groundwater resources there.

We are alarmed that the function of the Greater Imperial Marsh and Galloway Tract will be severely compromised with adjacent major mining operations that bring:

- Blasting,
- Noise,
- Dust,
- Groundwater disturbances,
- Heavy truck traffic,
- Land loss,
- Adverse hydrology impacts, and
- Wildlife habitat loss and disruption.

**IMPERIAL MARSH AND PROPOSED TROYER MINE**



<http://www.leegov.com/conservation2020/preserves> (Status Map)

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Lee County's own Land Development Code (Ch. 34) states "Mining operations, by their very nature, are INCOMPATIBLE with most other uses." Wildlife functions poorly or not at all with these attendant and major disturbances surrounding its habitat. Nesting and foraging will be severely affected by all these direct impacts.

Considerable taxpayer dollars were spent purchasing and restoring these preserves. Allowing mining adjacent to these valuable conservation lands is irresponsible and must be avoided. The County's investment must be protected by rejecting this rezoning request. This is simply not the right location for a lime rock mine.

### **Additional Comments Regarding Troyer Brothers Mine**

#### **Panthers**

I would like to point out my understanding of panther telemetry that was used by the applicant to demonstrate during the ZEX Hearing that panthers would not be affected by this mine. First, few panthers are collared, so the data shows just a small number of panthers rather than many. I believe the dots, or panther locations, shown on the graphic during the ZEX hearing tell where panther are at a given moment and most of those readings are during the daytime when panthers are relatively still. The dots are not shown in the agricultural area where mining would occur as proposed by the applicant. Panthers wouldn't be expected to be there since there is little cover for them in the fields. However at night, it is highly probable the panthers are traversing the agricultural fields to travel between the two conservation areas east and west of the agricultural fields. A mine lake in the middle of the two areas, as proposed, would prevent their crossing and hinder their foraging. Let there be no mistake, this mine would terribly affect panthers and panther habitat.

#### **Guaranty of Restoration at the Conclusion of Mining**

What guaranty is there that the applicant will have the financial resources in 35 years or so to complete the restoration work described in this hearing? I remind you that our country's "Superfund" was put into place by the US Government through the Comprehensive Environmental Response, Compensation, and Liability Act, or CERCLA to cover clean up costs of hazardous waste sites nationwide because certain companies involved with the manufacture, transportation, storage, and disposal of chemicals and hazard waste materials simply became non-existent when time came to remediate the problems they caused. This non-existence came about through bankruptcy or the owner (applicant) simply walking away. I am not inferring in any way that the applicant will follow this course. The company is apparently a responsible and reputable member of our business community. However, 35 years or more is a long time, much can happen during that time, and the restorations at the conclusion of mining will be a considerable cost.

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## **Access to S.R. 82**

Testimony was provided during the ZEX hearing about trucks accessing SR 82 via an uncontrolled intersection , i.e., no traffic light. An acceleration lane was discussed. However the direction of that lane was not. I believe an acceleration lane will be needed on both sides of SR 82 for trucks exiting the mine to the west and to the east. These are extremely slow, heavy trucks that accelerate very slowly. You have seen this on our roads – I certainly have since I live on Corkscrew Road and see these trucks many times daily.

With trucks exiting to the west on SR 82, there was no discussion in the hearing highlighting safety. Again from my experience on Corkscrew Road, the trucks will be leaving the mine usually from a standing stop. To turn west, they will need to quickly cross two lanes of very fast, head-on traffic on SR 82. They will accelerate very slowly while trying to enter the lanes and reach the median safely. Given the very high number of trucks, especially in the 8 to 9 AM peak time period, and the speed of on-coming traffic, this is a recipe for disastrous and continuous crashes, minute after minute, hour after hour, day after day.

Also regarding the applicant’s request to operate trucks up to 10 PM at night. This cannot be allowed for numerous reasons. I urge you to not allow evening trucking. This is a direct quality of life issue for those living in that area and using the roadways.

When trucks are in line waiting to enter the gates of the facility in the morning and then again waiting to exit onto SR 82 and encountering the problems I’ve already described, they will be generating large amounts of diesel exhaust fumes, again minute after minute, hour after hour, day after day. To generate that much exhaust is bad enough but it’s also being generated in very close proximity to workers at the Sakata Seed America facility adjacent to the mine’s driveway. These workers should not be exposed to the continuously generated exhaust fumes.

## **Lime Rock Needs**

We do not believe that the applicant has not shown to our satisfaction that there is a demonstrated and clear need for additional lime rock materials. It is well documented that there is no current or anticipated shortage of supply.

There are sufficient lime rock resources already permitted in Lee County to satisfy the demand of the 8 county SW Florida region well beyond 2030. This conclusion is stated by the study commissioned by Lee County entitled “Southeast Lee County Density Reduction/Groundwater Resource Area Mining Study” by Waldrop Engineering and dated September 2016 and accepted by the BOCC later in 2016.

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That report indicated that Lee County has sufficient lime rock supply to meet regional demand up to and beyond the 2030 planning horizon as I said. These lime rock needs studies had been commissioned roughly every seven years.

A basic question arises: If the Waldrop report indicates there is sufficient need through 2030, why are we considering another mine now? While we realize permitting requires up to several years, it does not require 12 years.

## **Regarding the Waldrop Report:**

The Waldrop Engineering report assumes that annual lime rock demand will be 9 tons for each permanent resident. That ratio was derived from Florida's actual population and actual lime rock production prior to the recession.

We believe that relying on the 9-ton ratio for the future is conceptually wrong for lime rock demand, and for demand for other building materials. The demand for building materials is more closely related to new construction than to total population because a very high percentage of building materials, including lime rock, are used to build new homes, new stores, and new roads to serve a growing population.

The accompanying chart "Figure B-5" from the July 2008 report, "*Prospects for Southeast Lee County*", by Dover Kohl & Associates" and prepared for Lee County clearly demonstrates that the production of aggregate and other lime rock products fluctuates more with population growth than with the size of the total population.

If we wanted to know how much food would be consumed in southwest Florida, we might use Florida's current ratio of food consumed per permanent resident and apply it locally. The same is true for projecting future needs for potable water or for roads, although local data would always be more reliable.

But when projecting the need for building materials, it's inaccurate to rely on the number of permanent residents. The evidence was all around us during the past decade when we saw the lime rock mines running around the clock during the boom years, with a constant stream of heavy trucks leaving the mines. Then during the recession, the mines that remained open ran with skeleton crews and relatively few trucks left the mines. The past few years of boom growth have caused the mines to reactivate. The permanent population of Lee County hardly changed, but construction for new homes and businesses dropped off precipitously during the recession and then returned when the economy recovered.

The July 2008 Dover Kohl report contained a detailed lime rock demand analysis. That analysis ran calculations using two methods: first, using the permanent population each year; and second, using the amount of growth expected each year. In the second method, the results were weighted

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and combined to produce the final lime rock demand analysis; 75% was based on additional growth and 25% was based on permanent population. The 25% was included to account for lime rock used for the existing population such as upgraded homes, wider roads, and infrastructure replacement, i.e., airports and utility plants. This second method was labeled the “hybrid” method.

If one reviews the court records of the legal challenges to the County’s comprehensive plan amendments that established the Future Lime rock Mining Overlay, one will see that the amendments relied upon the hybrid demand estimation method used in the 2008 Dover Kohl study. After the County adopted the DR/GR Comprehensive Plan amendments in 2010, a number of mining companies sued Lee County for adopting those provisions including Map 14, the Future Lime rock Mining Overlay. Following a three day hearing, in February 2012, the Administrative Law Judge assigned to the case, affirmed the County’s DR/GR Comp Plan changes, including Map 14, which specifically relied upon the hybrid demand estimate method.

The petitioners in that case had, instead, advocated for the simpler total population methodology, which was also later used by Waldrop Engineering for its 2016 mining study. Thus, the Administrative Law Judge found the boundaries of the Future Lime rock Mining Overlay based upon the hybrid method to be the more legally defensible than the simpler total population method.

In March, 2012 the Interim Executive Director of the Florida Department of Economic Opportunity accepted the Administrative Law Judge’s recommendation and found the 2010 Lee County Plan amendments to be in compliance with the relevant Florida statutes. Thus, the legal defensibility of the hybrid method approved by the county in 2010 would appear to be beyond question and should have been used by Waldrop in 2016 in our opinion.

Unfortunately, at its December 20, 2016 meeting, BOCC voted to accept Waldrop’s 2016 Southeast Lee County DR/GR Mining Study using what we consider the wrong estimate for determining future lime rock needs as Support Data for the Lee Plan with no discussion of the legal history I’ve just briefly described.

We urge you to first ask for a thorough review of the mining study in which the more legally defensible hybrid estimate method of determining future demand is used; and second to hold off on any further consideration of future mining projects, including this Troyer Brothers Mine - at least until that mining study is amended, reviewed and evaluated. We strongly believe the Waldrop Report over estimates a greater need for lime rock earlier in the future. We are confident that if the hybrid method is used, one will find that the current supply of lime rock will last well beyond 2030, making the approval of another mine now even more unnecessary. We urge you to not approve this rezoning request until the methodology used in the Waldrop Report is revised to use the hybrid method and a decision to move forward or not with the rezoning request is based on accurate future needs.

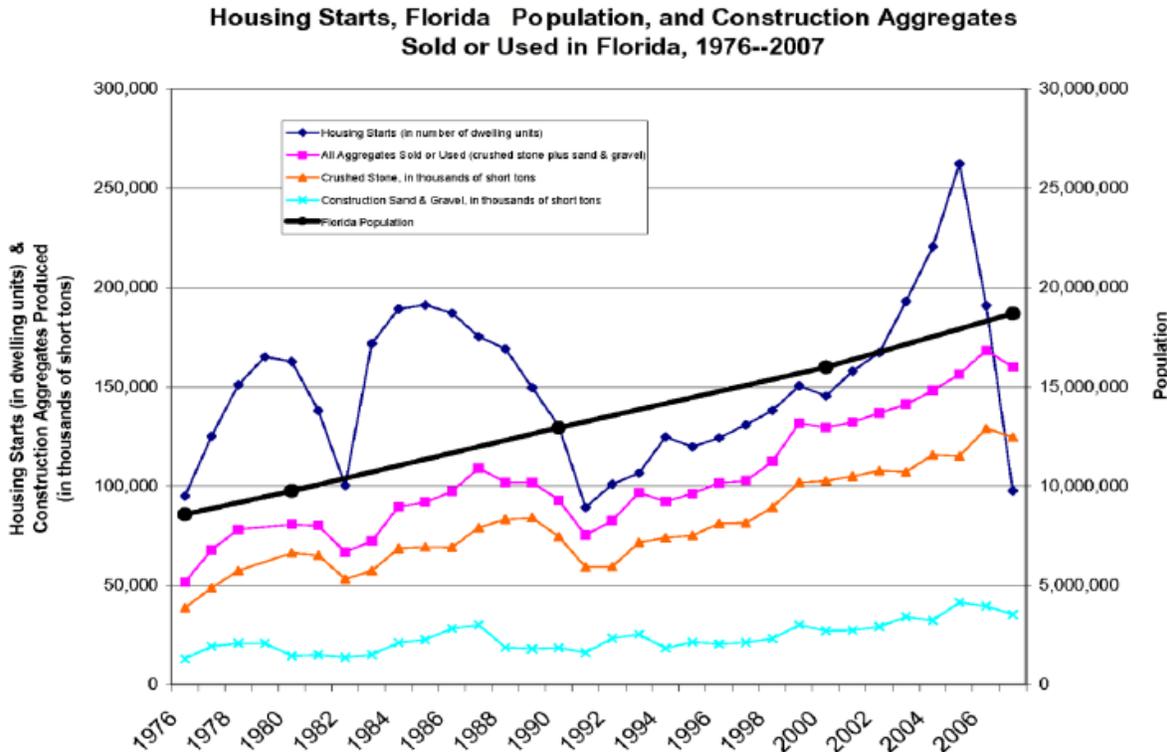


Figure B-5

July 2008 B.11

Figure B-5

While I understand that much planning has gone into this request, I believe it is true that this location is not the right place for a mine especially when the need is not there due to other, already approved sources.

We hope you will consider the serious ramifications of allowing a mine in this location and recommend **against** rezoning. We urge you to **not** approve this request for rezoning.

Sincerely,

*Peter M. Cangialosi*

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