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March 19, 2010

Mr. Michael Bosi  
Comprehensive Planning Manager  
2800 N. Horseshoe Drive  
Suite 400  
Naples FL 34104

RE: 2011 EAR

Dear Mike:

The Conservancy of Southwest Florida appreciates the opportunity to offer comments and suggestions for issues that we believe are important to address during this Evaluation and Appraisal Report (EAR) review process. Our three sections of comments, as detailed below, provide our perspective as to areas where Collier County can improve natural resource protection and provide clarification to existing policies. We look forward to continuing our participation during the EAR and the subsequent EAR-based amendments next year and we offer our assistance in ensuring the below issues are addressed during this process.

### **Issue 1: Watershed Management Plans**

During Collier County's last EAR, the Conservancy actively advocated for the timely completion of the overdue Watershed Management Plans as required by the Conservation and Coastal Management Element (CCME) Objective 2.1. We supported the County's inclusion of a realistic timeline of 2010 for the completion of the plans, as well as the inclusion of detailed policies to guide their design. The finished plans were to be both technical documents and planning tools.

Watershed Management Plans were significantly overdue at the time of the last EAR. Their initial completion date of 1994 was extended to 2000, but by 2006 the plans were not even initiated. Therefore, the adopted 2007 EAR-based amendments contained not only the requirements to complete the plans, but also interim standards to guide the County in reviewing development until the time of plan implementation. These standards are contained in Objective 2.1 of the CCME and have served a valuable function in guiding how the County determines feasibility of projects based upon their impact to the watershed.

In looking towards to future, Collier County also included within Objective 2.1 specific policies detailing how these Watershed Management Plans would be created, what information was required to be included within them and how they would be applied to projects in the future. These plans were clearly intended to be both a technical and a planning document, as detailed in CCME Policy 2.1.4:

All Watershed Management Plans shall address the following concepts:

- a. Appropriate wetlands and uplands serving as a buffer to wetlands are conserved;
- b. Drainage systems do not degrade wetland and estuary ecosystems;
- c. Surface water that potentially could recharge ground water is not unduly drained away;
- d. When feasible the extent and effects of salt-water intrusion are lessened;
- e. The timing and flow of fresh water into the estuaries from the watershed shall, as a minimum, not degrade estuarine resource value;
- f. The needs of the watershed's natural resources and human populations are balanced;
- g. The effects on natural flood plains, stream channels, native vegetative communities and natural protective barriers which are involved in the accommodation of flood waters;
- h. Non-structural rather than structural methods of surface water management should be considered first in any proposed new works;
- i. Wetland and estuarine habitat functions are conserved and/or enhanced; and
- j. Wetland and estuarine ecosystems will be conserved and/or enhanced using a variety of innovative tools, including landowner incentives, public acquisition, conservation easements, and/or transferable development rights.

The ability for Collier County to collect all of the necessary information as directed by the above policy and to meet the 2010 deadline for completion of the

Watershed Management Plans was made possible by the Board of County Commission's (BCC) inclusion of \$4 million in the County's FY07 budget, which has been carried through in subsequent years in order to continue funding for this multi-year project. This budgeted amount was intended to cover the cost of County staff time and to allow the County to outsource a large portion of the technical data collection, modeling and mapping.

While there have been no meetings to date for the public to review and comment on the consultant's data and modeling, it is evident that these technical components are in the process of being produced and the Conservancy looks forward to participating in future public meetings where this data can be fully vetted. However, as the County moves forward with this process and the data and modeling is completed, it will be essential for the County to then shift its focus to taking the technical information and creating a comprehensive planning document, as required by the above sub-policies in Policy 2.1.4.

In fact, during a review of the CCME, the Conservancy found a number of policies that reference the requirement that Watershed Management Plans be not just technical, but also planning, documents. Below is a list of all relevant policies:

**Policy 1.3.5:**

Where possible, the implementation of the NRPA program shall be coordinated with the preparation and implementation of watershed and sub-basin management plans.

**Policy 2.1.1:**

These Plans will evaluate activities in the watersheds that drain into the estuaries in order to evaluate cumulative impacts on the estuarine system as well as impacts within the watersheds themselves.

**Policy 2.1.2:**

The Plans will provide for various tasks such as monitoring land-disturbing activities in the watersheds, collecting canal flow and water quality data, stormwater quality data, and assessing habitat changes.

**Policy 2.1.3:**

The Plans will also evaluate structural and non-structural controls for restoring historical hydroperiods in impacted watersheds where possible and for reducing the impacts of canal and stormwater discharges to estuaries.

**Policy 2.1.4:**

All Watershed Management Plans shall address the following concepts:

- a. Appropriate wetlands and uplands serving as a buffer to wetlands are conserved;
- b. Drainage systems do not degrade wetland and estuary ecosystems;
- c. Surface water that potentially could recharge ground water is not unduly drained away;
- d. When feasible the extent and effects of salt-water intrusion are lessened;
- e. The timing and flow of fresh water into the estuaries from the watershed shall, as a minimum, not degrade estuarine resource value;
- f. The needs of the watershed's natural resources and human populations are balanced;
- g. The effects on natural flood plains, stream channels, native vegetative communities and natural protective barriers which are involved in the accommodation of flood waters;
- h. Non-structural rather than structural methods of surface water management should be considered first in any proposed new works;
- i. Wetland and estuarine habitat functions are conserved and/or enhanced; and
- j. Wetland and estuarine ecosystems will be conserved and/or enhanced using a variety of innovative tools, including landowner incentives, public acquisition, conservation easements, and/or transferable development rights.

**Policy 2.1.5:**

Upon establishment of the various Watershed Management Plans for Collier County, all environmental data collection, environmental management and environmental planning activities conducted by Collier County shall be conducted using a basin-by-basin approach.

**Objective 6.2:**

The County shall protect and conserve wetlands and the natural functions of wetlands pursuant to the appropriate policies under Goal 6. The following policies provide criteria to make this objective measurable. The County's wetland protection policies and strategies shall be coordinated with the Watershed Management Plans as required by Objective 2.1 of this Element.

**Policy 6.2.3:**

Collier County shall implement a comprehensive process to ensure wetlands and the natural functions of wetlands are protected and conserved. This wetland preservation and conservation process

shall be coordinated with the Watershed Management Plan process, as referenced in Objective 2.1 of this Element. However, the process outlined within this policy is primarily based on directing concentrated population growth and intensive development away from large interconnected wetland systems. These wetland systems have been identified based on their type, values, functions, sizes, conditions and locations within Collier County. These systems predominantly occur east of the County's Urban boundary, as delineated on the Countywide Future Land Use Map (FLUM), within the Future Land Use Element (FLUE). Many of these wetlands fall within public lands or land targeted for acquisition. High quality wetlands systems located on private property are primarily protected through native vegetation preservation requirements, or through existing PUD commitments, conservation easements, or Stewardship Sending Area Designations, or via the NRPA or Sending designations within the Rural Fringe Mixed Use District or land/easement acquisition, or innovative landowner incentives. Protection measures for wetlands and wetland systems located within the northeastern portion of Collier County, excluding the community of Immokalee, are contained in the Rural Lands Stewardship Area Overlay (RLSA Overlay) of the FLUE (and as depicted on the FLUM). Protection measures for wetlands and wetland systems located within the Urban and Estates designated areas of the County shall be based upon the jurisdictional determinations made by the applicable state or federal agency. Where permits issued by such state or federal agencies allow for impacts to wetlands within Urban and Estates designated areas and require mitigation for such impacts, the permitting agency's mitigation requirements shall be deemed to preserve and protect wetlands and their functions, except for wetlands that are part of a Watershed Management Plan preserve area. The County shall direct impacts away from such wetlands. The large connected wetland systems that exist at the landscape scale in Collier County shall be protected through various Land Use Designations and Overlays that restrict higher intensity land uses and require specific land development standards for the remaining allowable land uses. Collier County shall direct incompatible land uses away from these large landscape scale wetland systems through implementation of the following protection and conservation mechanisms:

(Mechanisms listed are Conservation Designation, Big Cypress Area of Critical State Concern, Natural Resource Protection Areas, Rural Fringe Mixed Use District Sending Lands, Flowway Stewardship Areas, Watershed Management Plans (see below))

**(VI) (6) Watershed Management Plans**

Collier County will establish watershed management plans throughout the County, but with particular emphasis on the Urban

and Estates designated areas. These watershed management plans shall be established in accordance with Objective 2.1 of this Element and will include the preservation or, where feasible, creation of landscape-scale wetland conservation areas to act as habitat, natural water quality treatment and water quantity retention/detention areas. The County shall direct incompatible land uses away from such large-scale wetlands.

Collier County shall allow for more intensive development to occur in Rural Fringe Receiving Lands, North Golden Gate Estates, the Rural-Settlement Area District, and the Urban Designated Areas subject to the land uses identified in the Future Land Use Element, the Immokalee Area Master Plan, and the Golden Gate Area Master Plan. These areas account for only 6% of Collier County's wetlands. Except for tidal wetlands within the coastal portion of the Urban Designated Area and wetlands that are part of an established watershed management plan, the County finds that the wetland systems in these areas are more fragmented and altered than those systems located within the Conservation Lands, ACSC and NRPA Overlays, and Rural Fringe Sending Lands.

**(VI)** On a project-specific basis, wetlands and wetland functions shall be protected through the following mechanisms:

- (1) Federal and State jurisdictional agency review and wetland permitting;
- (2) Vegetation preservation policies supporting CCME Objective 6.1;
- (3) Wetland protection policies supporting CCME Objective 6.2;
- (4) Clustering provisions specified in the Rural Fringe Mixed Use District of the FLUE
- (5) The protection of wetlands that are part of an established watershed management plan, as per Objective 2.1 of this Element.
- (6) Land or easement acquisition.
- (7) Land owner incentives, such as transferable development rights, tax relief, or USDA grants for restoration.

**Policy 6.2.4:**

Within the ***Urban Designated*** area, the County shall rely on the wetland jurisdictional determinations and permit requirements issued by the applicable jurisdictional agency, except for wetlands that are part of a Watershed Management Plan preserve area. The County shall direct impacts away from such wetlands.

- (5) Within one year after Watershed Management Plans are accepted by the Board of County Commissioners, Collier County shall develop and implement additional means to protect wetland systems identified in each Plan for preservation or restoration.

Means to consider include innovative landowner incentives, transferable development rights, tax relief, land or easement acquisition, state and federal grants, and enhanced regulations.

**Policy 6.2.7:**

Within the ***Estates Designated Area and the Rural Settlement Area***, the County shall rely on the wetland jurisdictional determinations and permit requirements issued by the applicable jurisdictional agency, except for wetlands that are part of a Watershed Management Plan preserve area. The County shall direct impacts away from such wetlands.

These plans were clearly intended to be utilized by Collier County in reviewing the appropriateness of the location and internal design of future development projects as they impact the watershed in its entirety. The Conservancy looks forward to these plans becoming a useful and viable planning tool for Collier County. As the policies that created these Watershed Management Plan requirements were an outcome of the previous EAR, we believe the current EAR is a good time to be reminded of not only the work that has been accomplished, but all that remains to be done. We look forward to being an active participant as these Watershed Management Plans move through the creation and implementation process and we offer our assistance to ensure timely completion and compliance with the CCME.

**Issue 2: Inclusion of meaningful policies within the Transportation Element to direct inappropriate transportation corridors, new roads and roadway expansion projects away from environmentally sensitive lands**

The ability to promote sustainable growth while protecting natural resources cannot be achieved without environmentally compatible planning and policies, including identification and reinforcement of the connection between transportation and land use planning. Such a connection is acknowledged in the Growth Management Plan (GMP) Transportation Element within section C. Perspectives, subsection 1. Land Use Issues, which states, in part,

As an alternative to this pattern of demand driving the transportation system improvements, the County has begun to explore ways to have the roadway system guide the patterns and densities of development. The County can determine the type of roadway system it wishes to maintain at the adopted level of service and then take steps to permit the type of land uses that will be consistent with that system. In this way, the County will be in a better position to keep the demand for transportation services from outstripping the supply of the roadway system.

Further, the need to address environmental considerations early in the process is briefly recognized within section A. Future System Needs, subsection 2. Traffic Circulation Constraints, where the last sentence states,

Even though environmental concerns are usually addressed through the permitting process, it is important to consider various highway alternatives in light of the sometimes fragile ecological features.

However, these concepts do not translate into specific, substantive objective and policy guidance within the Transportation Element's Goals, Objectives and Policies. In fact, any mention of planning for environmental considerations is only briefly addressed in a few policies, including Policy 3.5, which states in part,

A. Within one year of the effective date of this amendment, the County shall prepare and adopt a Thoroughfare Corridor Protection Plan (TCPP) ordinance and land development regulations that:

3. limit the uses of land within the required corridor, appropriately plan for the location of land uses, and direct incompatible land uses away from environmentally sensitive resources

December 4, 2007 was the adoption date on this particular amendment and to date this TCPP has yet to be adopted as an ordinance or incorporated within the Land Development Code, making this overdue by more than one year. In conversation with County transportation planning staff, the Conservancy has learned that, while behind schedule, the TCPP is currently in the process of review with the intention of adoption through an ordinance in the future.

While a TCPP will be one useful tool in creating a mechanism to integrate environmental protection with transportation planning, its application is extremely limited. It applies only to directing incompatible land uses away from environmentally sensitive resources within development footprints occurring in designated future road corridors. Therefore, we encourage Collier County to explore additional specific environmental policies to the Transportation Element as part of the EAR to expand upon the intent to protect environmental resources from being impacted by such road corridors in the first place.

This could be done through the inclusion of an additional objective stating, "Collier County shall pursue a transportation network that is compatible with the protection and sustainability of our environmental resources." Policies should include the clear intent to first avoid impacts. If avoidance is not feasible, then impact minimization should be the second option. Only after these options have been exhausted should the scenario of impact mitigation be considered. Under



this new objective, it could be appropriate to also rework Policy 7.6, which currently states,

The County shall use community impact assessment techniques in evaluating projects in the transportation planning process. These techniques include the use of the Efficient Transportation Decision Making (ETDM) through the Long Range Plan to address environmental and socio-cultural issues as well as corridor specific analysis through the Project Development and Environment Studies and Corridor studies. In addition, during the design of transportation projects there are numerous design and special meetings to take into account the socio-cultural elements of the community including character issues such as aesthetic, avoiding or mitigating for environmental impacts, noise and community disruption issues.

We suggest reworking this policy to separate out environmental from socio-cultural considerations, as environmental issues will encompass science-based technical components and socio-cultural issues deal primarily with quality of life and compatibility with existing and future neighborhoods. Both are important enough considerations to warrant their own separate policies. The Conservancy also suggests that while the ETDM process is an integral component of transportation planning, it is not by itself sufficient to address all relevant environmental issues, which is why we recommend that that it be one of several environmental policies contained within a separate objective.

We also ask that another policy be considered (either in the Transportation Element or the Capital Improvements Element) requiring the County to assess the environmental costs of projects within environmentally sensitive lands and determine up front if such projects are even feasible. With the current downturn in the economy, and recovery certain to be slow, what was considered cost-feasible in the past must now be reconsidered. Transportation planning must be leaner and more cost-effective in the future, as local, state and federal agencies will be operating with much smaller budgets. While certain costs cannot be easily reduced because they are outside the influence of the County, there are other strategies that can be utilize to result in significant cost savings.

For example, currently, highway construction costs comprise 54.9% (\$2.7 billion) of the total \$5.1 billion included in the overall Metropolitan Planning Organization's (MPO) 2030 LRTP Needs<sup>1</sup>. Such totals factor in all of the costs associated with roadway construction, including mitigation<sup>2</sup>. While certain costs will always be part of the road-building process (right-of-way, equipment,

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<sup>1</sup> Long Range Transportation Plan. Collier County MPO. Adopted June 8, 2007. Pages 11-19 and 11-20

<sup>2</sup> Collier MPO staff communication at July 21, 2009 2035 LRTP Update Environmental Stakeholders Meeting

aggregate materials, etc.), costs such as mitigation can be reduced dramatically by the simple step of ensuring that impacts are first avoided and minimized.

Finally, there should be a policy that focuses on a partnership between transportation planning staff and the MPO to create an Environmentally-Feasible Map to ensure the MPO's updated 2035 Highway Needs Plan (which will be incorporated into the GMP by reference) is consistent with protection of environmental resources. Utilizing the various natural resource layers for determining environmental feasibility is an important step in transportation planning. Such data layers should include:

- Primary and Secondary Panther Habitat
- Panther Telemetry
- Public Acquisition Boundaries
- Strategic Habitat Conservation Areas
- Listed Species Locations (Caracara Telemetry/Nests, Scrub Jay Habitat, etc.)
- Wading Bird Foraging Areas
- Wetlands
- Natural Flowways and Flowway Restoration Plans
- Native Vegetation
- Habitat Conservation Priorities

By overlaying the 2030 Highway Needs Map onto a map of natural resources layers, the roads that may conflict with resource protection will be easily determined. These alignments should be re-assessed and, if in conflict with resource protection, moved or eliminated. Thus, the Environmentally-Feasible Map could become a basis for the updated 2035 Highway Needs Map and be addressed in the GMP Transportation Element.

**Issue 3: Clarify the native vegetation retention requirements for the Lake Trafford/Camp Keais Strand System within the Immokalee Urban Area as it applies to CCME Policy 6.2.5**

Based upon the 1999 Final Order, Collier County was required to do more to protect its natural resources. One such environmental feature in need of additional protective measures was the Lake Trafford/Camp Keais Strand System, which is a natural, functioning and connected wetland system that straddled two different planning areas – the Immokalee Urban Area and Eastern Collier County. In order to provide sufficient protection for this system, policies were adopted into both the Immokalee Area Master Plan (IAMP) and the GMP for its protection.

The portions of this wetland system within Eastern Collier County's Rural Lands Stewardship Area (RLSA) Overlay have an additional layer of protection due to their designation as Flowway Stewardship Areas (FSA). This designation

eliminates a number of incompatible land uses from these areas and incentivizes development to be directed to more appropriate locations through the transfer of stewardship credits. However, with no such provision initially in place to protect the portion of this wetland system within the Immokalee Urban Area, there was a legitimate concern that the integrity of this hydrologically connected system could be negatively impacted by inappropriate development within Immokalee.

In order to provide additional protective measures for the Lake Trafford/Camp Keais Strand System, policies were adopted in both the IAMP and the CCME. Included in the IAMP was the ability for a portion of these wetlands to be integrated into the RLSA. Within the CCME, the importance of protecting this wetland system was acknowledged through the adoption of language within Policy 6.2.4 during the 2004 EAR-based amendments, which stated,

Within the Immokalee Urban Designated Area, there may exist high quality wetland systems connected to the Lake Trafford/Camp Keais Strand system. These wetlands require greater protection measures than wetlands located in other portions of the Urban Designated Area, and therefore the wetland protection standards set forth in Policy 6.2.5 shall apply in this area. This area is generally identified as the area designated as Wetlands Connected To Lake Trafford/Camp Keais Strand System on the Immokalee Future Land Use Map and is located in the southwest Immokalee Urban designated area, connected to the Lake Trafford/Camp Keais Strand System. Within one (1) year of the effective date of these amendments, the County shall adopt land development regulations to determine the process and specific circumstances when the provisions of Policy 6.2.5 will apply.

Within the CCME, Policy 6.2.5 stated, in part,

Within the Rural Fringe Mixed Use District, and that portion of the Lake Trafford/Camp Keais Strand System which is contained within the Immokalee Urban Designated Area, Collier County shall direct land uses away from higher functioning wetlands by limiting direct impacts within wetlands based upon the vegetation requirements of Policy 6.1.2 of this element, the wetland functionality assessment described in paragraph (2) below, and the final permitting requirements of the South Florida Water Management District. A direct impact is hereby defined as the dredging or filling of a wetland or adversely changing the hydroperiod of a wetland. This policy shall be implemented as follows:

(1) The County shall apply the vegetation retention requirements of Policy 6.1.2 of this element to preserve an appropriate amount of native vegetation on site.

However, the cross-referenced language in Policy 6.1.2 contains four categories of Rural Fringe Mixed Use District lands, each with specific amounts of native vegetation required to be preserved. Policy 6.1.2 states, in part,

For the County's Rural Fringe Mixed Use District, as designated on the FLUM, native vegetation shall be preserved on site through the application of the following preservation and vegetation retention standards and criteria:

Preservation and Native Vegetation Retention Standards:

- a. **Receiving Lands:** A minimum of 40% of the native vegetation present, not to exceed 25% of the total site area shall be preserved
- b. **Neutral Lands:** A minimum of 60% of the native vegetation present, not to exceed 45% of the total site area shall be preserved
- c. **Non-NRPA Sending Lands:** Calculated at the higher value of 80% of the native vegetation present, or as may otherwise be permitted under the Density Rating provisions of the FLUE
- d. **NRPA Sending Lands:** Calculated at the higher value of 90% of the native vegetation present, or as may otherwise be permitted under the Density Blending provisions of the FLUE

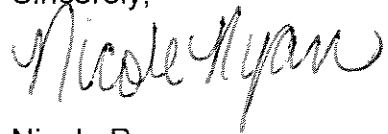
Because Policy 6.2.5 is silent as to the Rural Fringe category applicable for the Lake Trafford/Camp Keais Strand System, the policy as it is currently written is open to interpretation. The Conservancy believes that the EAR amendment is the logical time to clarify Policy 6.2.5, based upon the high environmental value and connectivity of this wetland system to downstream areas. We believe the only valid way to protect these wetlands is through application of the vegetation retention policy for NRPA Sending Lands. Our simple suggestion for clarifying language in Policy 6.2.5 is as follows in the underlined text,

(1) The County shall apply the vegetation retention requirements of Policy 6.1.2(d), NRPA Sending Lands, of this element to preserve an appropriate amount of native vegetation on site.

Such language removes any ambiguity from the policy, provides landowners clear direction as to required protection of their lands and protects these wetlands in an environmentally compatible manner. This language is also consistent with the intent of the 1999 Final Order and the intent of the 2004 EAR-based amendments.

If you have any questions regarding these issues, or if you would like for the Conservancy to provide additional information on these or other environmentally related topics, please contact me at (239) 403-4220 or [nicoler@conservancy.org](mailto:nicoler@conservancy.org).

Sincerely,

A handwritten signature in cursive script that reads "Nicole Ryan".

Nicole Ryan  
Governmental Relations Manager

CC: Nick Casalanguida  
Carolina Valera  
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Claudine Auclair