

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, November 17, 2011

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m., in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

CHAIRMAN: Mark P. Strain
Brad Schiffer
Paul Midney
Melissa Ahern
Karen Homiak
Diane Ebert
Barry Klein
Phillip Brougham

ALSO PRESENT:

Bill Lorenz, Comprehensive Planning
Raymond V. Bellows, Planning Manager, Zoning
Heidi Ashton-Cicko, County Attorney's Office
Tom Eastman, School Board Representative

CHAIRMAN STRAIN: Good morning, everyone. Will you-all please have your seats only so I can ask you to stand up for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay. Welcome to the Thursday, November 17th meeting of the Collier County Planning Commission.

Will the secretary please do the roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Mr. Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER HOMIAK: Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: Mr. Klein?

COMMISSIONER KLEIN: Here.

COMMISSIONER HOMIAK: Mr. Brougham?

COMMISSIONER BROUGHAM: Present.

CHAIRMAN STRAIN: Okay. Addenda to the agenda. We have two items on today's agenda. One is the continuation of the Alico Land Development application for the Lost Grove Mine, and that will be the first item up.

The second item up is under the item of old business. It's been, unfortunately, continued several times. It's the Master Mobility Plan Phase II Report. I've asked Mr. Mulhere to attend today, if he would agree to another continuance at the request of the Planning Commission until our first meeting in December, because it's obvious today's meeting is not going to get over with much quality time left to discuss the mobility plan.

MR. MULHERE: Yes, that makes sense. We know you've got a full agenda today, and we'd rather have your undivided attention when we do get here. Thank you.

CHAIRMAN STRAIN: It's going to be hard enough to focus on this without having to worry about the second one.

MR. MULHERE: Thank you.

CHAIRMAN STRAIN: So thank you very much. And for those members of the audience either watching or here today, the mobility plan will be continued to December 1st on the vote of the Planning Commission.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion that I just made carries, 8-0. Okay. That's December 1st, so that will be our first meeting of the month.

And, Ray, if you can avoid putting other things -- well, I would expect we'll spend half a day on the mobility plan, so we still have time left, but --

MR. BELLOWS: For the record, there are currently no items scheduled, and for advertising purposes, I don't think it would be possible to get any other new items on there, so you should have all day on that.

CHAIRMAN STRAIN: Good. Appreciate that. Thank you.

Okay. Planning Commission absences. Our next meeting will be December 1st. Does anybody know if they're not going to be able to make it?

(No response.)

CHAIRMAN STRAIN: Okay. Looks like we'll have a quorum.

Approval of the minutes from October 20, 2011?

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Made by Ms. Homiak. Is there a second?

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: By Ms. Ebert.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: The motion carries 8-0. Thank you.

Ray, do we have any BCC report?

MR. BELLOWS: During the last board hearing, there were no land-use items presented.

CHAIRMAN STRAIN: Okay. We'll see if we can change that.

Chairman's report. I really don't have anything to move into today. So we have no consent agenda items. Then we'll move right into our advertised public hearings.

***The first item up is CU-PL2009-1412. It's a continuation from our last meeting for the Alico Land Development, Inc., Lost Grove Mine application. It's a conditional use.

All those wishing to testify on behalf of this item, please rise and be sworn in by the court reporter.

(The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN STRAIN: Okay. Disclosures from the Planning Commission? Ms. Homiak?

COMMISSIONER HOMIAK: I spoke with Nicole Johnson.

CHAIRMAN STRAIN: Okay. Melissa?

COMMISSIONER AHERN: Emails.

COMMISSIONER SCHIFFER: Mark? Yeah, Nicole Johnson and I did have a phone conversation.

CHAIRMAN STRAIN: Okay, Paul?

COMMISSIONER MIDNEY: I spoke with Nicole, and also -- I think it's Mr. Van who's a resident on Whidden Road.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: Yes. In fact, I visited the site yesterday and saw -- with Nicole Johnson and Mr. Van.

CHAIRMAN STRAIN: Barry.

COMMISSIONER KLEIN: I also, on Tuesday, saw the site with Nicole Johnson.

CHAIRMAN STRAIN: You guys didn't do that together, did you?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: Just checking.

Phil?

COMMISSIONER EBERT: I went yesterday.

COMMISSIONER KLEIN: Nicole knows better.

CHAIRMAN STRAIN: Okay. Phil?

COMMISSIONER BROUGHAM: I received several emails, as probably most of you have.

CHAIRMAN STRAIN: Okay. And I had talked with Nicole. I didn't -- I didn't get an invitation to see the site, so --

COMMISSIONER EBERT: Oh, I'll be happy to take you.

CHAIRMAN STRAIN: No, you can't take me. I did get a lot of emails, and they've all been forwarded to Kay. Some of them have been redistributed, but I think they were the ones that all of us received.

I met with the applicant and went over the 42 various stipulations of the Jones Mine to see where they stood on those, and we're going to be discussing all those today.

And I had an email from a gentleman who lives near there asking if I had the time to tour his property. I wish I had. It's been an -- unfortunately, a very difficult and busy week for me, so I didn't get a chance to catch up with him, so I wasn't able to make that. But I -- that was one of the other emails I'd gotten. So that's the last of mine.

Okay. With that, we left off last time with a discussion, or with a presentation by Lee County staff. We were running out of time, and there was an opportunity for cross-examination provided to the applicant.

Before that opportunity for cross-examination goes forward, the Planning Commission may have some questions of the Lee County staff that we didn't get time to ask at our last meeting, so we'll start out with those.

But before we do, I've had questions from another one or two attorneys regarding the ability to cross-examine. We certainly have provided that to the applicant, and I feel, in all fairness, we should provide it as well to those attorneys representing other groups.

Heidi Ashton, I asked her to comment on this and set any procedural standards that we need to in order to make sure it doesn't get carried away.

So, Heidi, can you comment on the ability to cross-examine?

MS. ASHTON-CICKO: Yes. The law requires that the parties are able to cross-examine, so that would include the county and the petitioner's agents; however, as a courtesy, you could set reasonable limitations on some of the other interested or potentially affected parties.

So I would suggest if you do allow the cross-examination you limit it to five or ten minutes, or whatever time period you feel is reasonable.

CHAIRMAN STRAIN: Okay. And is cross-examination limited -- when you said parties, what's -- what is the reference to a party?

MS. ASHTON-CICKO: Well, the law requires the parties, and that would typically mean the county and also the petitioners -- petitioner.

CHAIRMAN STRAIN: Okay. But what if an attorney that is representing either himself or somebody else in the area would like to cross-examine and he's not part of the petitioners or part of either county, is that allowed?

MS. ASHTON-CICKO: I think that's an unclear area of the law, but I would suggest that you allow them to do cross-examination but to limit it. It's within your power to put a limitation on the amount of time they spend.

CHAIRMAN STRAIN: Okay. And I -- from my personal preference, I would rather hear everybody's comment and questions so that every piece of factual data we can have is on the table. So I'm not -- certainly not against cross-examination. I just ask that you recognize that there has to be limitations in order to move this meeting forward.

As it is, it's probably going to take a lot more time to get through the many issues we have here today, so -- and for those people that do end up speaking or cross-examining or any of that nature, redundancy is something that just takes time. We've been here for a long time. We understand things when they're said, or we try to understand them. So if you're going to come up with redundant comments, it'd be better if you launched into new material. It would be more useful to us.

Okay. With that in mind, I guess the -- we left off with Lee County staff making their presentation. Members of Lee County staff, if you're here, could you just raise your hand so we know -- okay. The hydrologist, the planner, and the lady -- I believe you're the environmentalist. Okay.

So I have a few questions of Lee County staff from last meeting I had written down. Does anybody else have

any?

(No response.)

CHAIRMAN STRAIN: Well, then I guess I'll start out with mine.

I guess, Matt, if you could come up for a minute.

And, by the way, for the applicant, if you want to cross-examine while any of these people are up here, when I finish with the questions that I have, if you want to ask yours at that time, that would probably be most convenient.

Matt, first of all, thank you for attending today. You had mentioned some things during your presentation that I wanted to clear up. You brought up a reference to the Yunquist mine in Lee County. How long ago -- that's an old mine?

MR. NOBLE: Yeah, it is, relatively.

CHAIRMAN STRAIN: Okay. You -- does it have the -- does it operate by the best-management -- BMPs, best-management practice or not? Or do the rules require them to?

MR. NOBLE: I believe it does.

CHAIRMAN STRAIN: Okay. Do you find that mine to be acceptable for the area that it's in, or has that been a problem with your residents up there, and are there many complaints that you know of?

MR. NOBLE: There have been complaints specifically along the Burgundy Farms Road area.

CHAIRMAN STRAIN: What went in first, Burgundy Farms or the mine?

MR. NOBLE: That's a tough call. I think the subdivision -- I'm not sure if there were any houses built in it at that point in time, but certainly the land, I believe, had been subdivided before.

CHAIRMAN STRAIN: Okay. I got a map from I think it was your department, and I'll try to pull it up here. And it outlined the mines in Lee County. You have mines that are in application for -- that would -- that about 82.

MR. NOBLE: Correct.

CHAIRMAN STRAIN: Okay. What is -- what's the status of the -- now, the reason I'm asking this is relevance to the location of this mine. The mine that is being applied for here today --

COMMISSIONER EBERT: He wants to know if you want to put that up on the screen.

CHAIRMAN STRAIN: That would be a starter, but if you're going to put stuff up on the screen, you can put this one up after that one. But, yeah, throw that one up first.

The second one that I did last night trying to understand the relationship to 82 with your mines and this particular mine is one I'll have some questions from, but the areas in orange -- great, it's not orange. It's upside down, too.

The areas in yellow -- the map we got in the email from your department was orange. But the ones in yellow in here are mines that have been applied for. What's the status of that application process?

MR. NOBLE: The Florida Rock Mine No. 2, I'll start there. That's the long east/west proposed mine. That has been found sufficient and has been scheduled for a board hearing. I think it's some months into the future. It's in a little different circumstance, as that's basically a reinstatement. It had previous approvals, but there had been some litigation activity between the applicant and the county. We've resolved all of that. We've resolved our differences.

As far as the litigation, now that plan will go forward to the board for their review. It's straight to the board, too, with the reinstatement. It goes straight back to the board, not through our hearing-examiner process.

The next one, side of it, the long north/south one, the Troyer Brothers application is going to the Board of County Commissioners.

COMMISSIONER EBERT: Can you point that out, please, on there.

MR. NOBLE: Yeah. This was Florida Rock, Mine No. 2 that I talked about. Now I'm talking about the Troyer Brothers mine, north/south.

CHAIRMAN STRAIN: Thank you, Ray.

MR. NOBLE: That goes to the Board of County Commissioners Monday, November 21st, for a final deposition (sic) of that request.

Much like this case, we've raised those issues about State Road 82, level of service with State Road 82 and that. The hearing examiner did find that there was an issue with level of service on State Road 82 and did recommend denial of the request. The staff had recommended denial for a variety of other reasons besides the level-of-service issue.

The next one to the east is Old Corkscrew Plantation, a relatively large application, but it is insufficient, still

in the review phase.

CHAIRMAN STRAIN: Well, those are the main ones I was concerned about, because they all look like they're trying to access 82, which is the --

MR. NOBLE: Correct.

CHAIRMAN STRAIN: -- one of the major issues with the application that's in here today.

In Florida Rock's, which seems like it's a reinstatement, are they required to do any upgrades in 82 to get onto 82?

MR. NOBLE: They do not have access to 82. All of their access will come down through Alico Road.

CHAIRMAN STRAIN: Okay. What about the Troyer Brothers, when they -- if they were to get approved, is that --

MR. NOBLE: That was one of the conditions of the hearing examiner, that if they were to go forward in this time frame, they would be responsible for bringing up 82 to level-of-service standard, which would essentially require them to multi-lane State Road 82.

CHAIRMAN STRAIN: So did their TIS show that their traffic counts that they would put on 82 would cause 82 to fail?

MR. NOBLE: The circumstance was level of service on a segment of 82 had already failed. So what we were doing, or what the application would do, would have the effect of, would be to add additional traffic to a failing link.

CHAIRMAN STRAIN: So am I to understand that Lee County has a moratorium on 82 for any development that might access 82?

MR. NOBLE: It is an issue with our concurrency system. But you have to keep in mind that the vast amount of development, such as Lehigh Acres, the Lehigh Acres plat is vested from concurrency. So each and every one of those lots in Lehigh could still develop.

CHAIRMAN STRAIN: Okay. So your -- it's not just the mine; you're not allowing any new development on 82. New development, not pre-platted.

MR. NOBLE: There would be issues if a project were accessing on State Road 82, yes.

CHAIRMAN STRAIN: Okay. Could you put that second map up that I gave you. The area outlined in red and pink, or whatever better color I could call it, those are the mines we just discussed. And I know you say they're going through the process. Troyer Brothers is going before the board with a recommendation from the hearing officer, and Florida Rock, basically, is going for a reinstatement. But over on the right in black is the -- in what was yellow, is kind of greenish -- is the application today.

And I'm wondering, if the applications in Lee County go through, which are much larger in appearance than the one that's being applied for today, has anybody done the groundwater modeling to see really what effect those larger mines have in comparison to the smaller one proposed for Lee County and for the people in between those two mines? Because it looks like the neighbors that are concerned in Lee County about Lost Grove aren't that far from those other mines.

So I was just wondering how the hydrology has been looked at or analyzed. Do you know of any?

MR. NOBLE: Well, that was an issue certainly in the Troyer's case. I mean, there was concerns expressed from our staff about flooding issues with neighbors to the south of the mine.

Do you remember the drawings that we put up that showed the flattening of the -- but -- so we had those concerns with the Troyer. It's still being analyzed with Old Corkscrew Plantation. But, yes, those -- there are concerns. It's the same circumstance with everybody on septic in potable-water wells.

CHAIRMAN STRAIN: And, also, those mines -- and especially the one to the -- the biggest one in the middle, according to the panther-habitat overlay, there's a lot of that in primary panther habitat. How have your --

MR. NOBLE: Correct.

CHAIRMAN STRAIN: Is that being considered as an issue in regards to the development of this mine for your --

MR. NOBLE: Certainly it is.

CHAIRMAN STRAIN: And speaking of panthers, when you referred to the panther telemetry during your presentation on Lost Grove, you referred to "that" panther. Are you saying all that telemetry is from one panther?

MR. NOBLE: I believe a lot of that telemetry was from one panther, yes.

CHAIRMAN STRAIN: Okay.

MR. NOBLE: Panther 188, I believe.

CHAIRMAN STRAIN: And another statement was that you basically -- I thought the statement -- I thought it was put forth, and I -- you know, it's been two weeks, so it's hard to remember all of it -- that you believe there's enough mines already in Lee County. Is that a -- how do you decide that in Lee County? How do you decide if there's too many or not enough? I mean, that's a land-use issue, basically.

MR. NOBLE: That's correct. We've looked at historic trends. We've looked at all of the literature, and this basically was work that was done by our consultant, Bill Spikowski. He looked at all of the known data, all of the known core samples, he looked at the bathymetric surveys that are required to be done after the mines are completed in Lee County, so he gave an estimate of what we've done to date, and then he looked at regional demand out through 2030.

And, historically, Lee County has provided about 80 percent of the aggregate to the entire region, the seven-county region, and he projected that out. And we looked at how much rock we still have in the ground that's approved.

And the conclusion was we've already approved enough rock to take care of the 80-percent supply for the region all the way out through 2030.

CHAIRMAN STRAIN: So in your --

MR. NOBLE: We actually have access, several thousand acres' access.

CHAIRMAN STRAIN: And we've -- we keep a track of excavation quantities in Collier County as well, not necessarily finding in our code, using that as a premise for either approval or denial, meaning if we had -- didn't have enough, that's a reason to approve, or if we have too much, a reason to deny.

Is your code -- just out of curiosity, are your codes set up so you can deny something because the local government feels there's too much of it?

MR. NOBLE: Need can be taken into account under the Lee County code, yes.

CHAIRMAN STRAIN: Okay. Okay. In the -- there was a comment -- I'm not sure if it was made at yours, so if you don't know the answer, that's fine. There's going to be \$92 million to be spent on 82 for various improvements. Does anybody know what time period those improvements are over?

MR. NOBLE: Well, the main improvement right now is under construction, and after that is completed, there is no more construction dollars at this point.

CHAIRMAN STRAIN: Okay. And I think it was Margaret Perry's presentation, so maybe at some point I'll ask her for some clarification on that.

And, lastly, I -- when you guys met with, I think it was the applicant and/or Collier County staff, there was apparently a round-table discussion about the mine application. Is that true?

MR. NOBLE: I believe so. I was not there, you know. I'm just hearing it from other staff members.

CHAIRMAN STRAIN: Okay. I'll have to wait. And if any of your staff members are here today who were there, I'll probably ask them a question.

MR. NOBLE: Yeah. I believe Becky was there at that meeting.

CHAIRMAN STRAIN: Okay. Melissa, did you have something?

COMMISSIONER AHERN: Have either one of these mines received permits from the state or Army Corps?

MR. NOBLE: Which mine?

CHAIRMAN STRAIN: The ones --

COMMISSIONER AHERN: The ones that are on the screen.

CHAIRMAN STRAIN: In pink.

MR. NOBLE: In Lee County?

COMMISSIONER AHERN: Yes.

MR. NOBLE: Yeah, I believe so.

CHAIRMAN STRAIN: Anybody else have any questions of Matt at this point?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: Matt, I don't know -- I guess I asked Chip, I believe his name was, to bring a picture of all your -- of the mine areas. How deep do they plan on mining these two that are just behind the Allico one;

do you know the depth?

MR. NOBLE: I believe relatively deep. I mean, off the top of my head, I know it's over a hundred feet. I think the Old Corkscrew went down to, like, 145 feet. But they all are unique, you know.

CHAIRMAN STRAIN: Okay?

COMMISSIONER EBERT: Okay. Thank you.

CHAIRMAN STRAIN: Anybody else have any questions of Matt? Does -- Bruce, do you have any cross-exam?

MR. MENZIES: Yes.

CHAIRMAN STRAIN: Okay. Bob, sorry.

MR. MENZIES: I'm Bob Menzies for the applicant, one of Bruce Anderson's partners. If I could give to staff a couple of the PowerPoint slides just to put them up.

Mr. Noble, I'm Bob Menzies at Roetzel and Andress. I represent, along with Bruce Anderson, the applicant here. I had a few questions.

Sir, could you put up the first slide that Mr. Strain gave with the yellow portions. Yeah, that one.

I think you described the new Florida Rock mine that's been approved by Lee County at the top, the long horizontal mine there. That one. Is that correct?

MR. NOBLE: Correct.

MR. MENZIES: Has that been approved by Lee County?

MR. NOBLE: It has in the past, yes.

MR. MENZIES: And has the state DEP issued an environmental resource permit for that mine?

MR. NOBLE: I believe so.

MR. MENZIES: So as part of the approval process, Lee County's own environmental staff would have approved that application, correct?

MR. NOBLE: Correct. I would caution one word though, that the staff report on this reinstatement has not been issued. There still may be some minor issues with the mine.

MR. MENZIES: Okay. With that application, I understand that that applicant, Florida Rock, made an unrelated donation of road right-of-way to Lee County as part of the process of getting your agreement to approve that mine; is that correct?

MR. NOBLE: That's correct.

MR. MENZIES: So where was the road right-of-way granted to Lee County from Florida Rock in relation to that mine?

MR. NOBLE: It does pass through a portion of the mine.

MR. MENZIES: But not entirely, correct?

MR. NOBLE: Not entirely, no.

MR. MENZIES: I had another quick question about some of Mr. Strain's comments on the economic and the market-demand issues.

MR. NOBLE: Sure.

MR. MENZIES: Is it your position or is it Lee County's position that market demand is a valid basis for an agency such as yours, or Lee County, to deny a property owner's right to use their land?

MR. NOBLE: Specifically in relationship to our goals, objectives, and policies in the plan, yes.

MR. MENZIES: Okay. The rest of my questions, Mr. Noble -- and I'll be as quick as I can, Mr. Strain.

CHAIRMAN STRAIN: That's fine.

MR. MENZIES: -- related to the specific comments that you made a couple of weeks ago in your testimony. We have a -- we've got a transcript.

In your testimony you referred to the area around our client's property as a residential area, residential properties, residential uses, residential areas. Isn't it true that the area in Lee County adjacent to the Lost Grove Mine is zoned agricultural?

MR. NOBLE: Certainly it's zoned agricultural, but what I was pointing out was the extensive residential neighborhood that sits on top of agriculturally zoned land.

MR. MENZIES: Correct. And that means that residential uses are permitted in an agricultural zoning district, right?

MR. NOBLE: Certainly.

MR. MENZIES: Okay. And -- but the primary designation remains agricultural, correct?

MR. NOBLE: Well, as I've pointed out in my testimony, Lee County considers this a residential neighborhood.

MR. MENZIES: Okay. But it is agricultural by --

MR. NOBLE: Certainly.

MR. MENZIES: -- official designation?

MR. NOBLE: It's a rural kind of estate area. Folks there have cattle, they have horses. They've, you know, enjoyed that agricultural zoning lifestyle.

MR. MENZIES: My point is simply this: The property is legally designated as an agricultural zoning district, correct?

MR. NOBLE: It has AG2 zoning, yes.

MR. MENZIES: Thank you, thank you. And in other comments, Mr. Noble, you referred to -- you were talking about our client's property and our client's application, and you referred to possible ancillary uses that might occur in the future, and you said, "I know it's not being requested today, but it's typical with a mine that you have ancillary uses, and so are uses such as a sand plant, asphalt batch plant, concrete plant, block concrete batch plant. These are all typical uses you would find around mines in Southwest Florida."

Do you remember that testimony?

MR. NOBLE: Certainly.

MR. MENZIES: Okay. You're aware, aren't you, in fact, that my client's application includes none of those ancillary uses, correct?

MR. NOBLE: I believe I stated that, yes.

MR. MENZIES: Okay. And you're also aware that if my client wanted to add those ancillary uses to this conditional-use permit, they'd have to actually go through this whole process again and seek another conditional use, right?

MR. NOBLE: Yes. I think my testimony was to the point of Lee County would like -- if this is approved, would like to know of those actions in the future.

MR. MENZIES: Okay. I think Mr. Strain's made clear that you would find out or get notice of those things in the future.

You also testified that my client -- you gave testimony regarding lighting and the unsightly noise and lights at night for this mine operation, and you said, "You have excavator drill rigs lighting at night." I'd like you to note you were referring to one of the mines in Lee County, a picture you'd brought with you. "I'd like you to note the lighting in the bottom right-hand corner. That is an operating facility in Lee County. These things are quite extensively lit at night. This is going to change the environment for those surrounding residential uses. It's going to light up that neighborhood."

You weren't talking about my client's application or property, were you?

MR. NOBLE: I believe that your client's property will be lit at night, that it will change the characteristics of this neighborhood.

MR. MENZIES: Have you reviewed the application and the conditions that my client's agreed to with respect to the operation of the mine being restricted to daylight hours?

MR. NOBLE: I understand that, but I believe it will still be lit at night for security purposes.

MR. MENZIES: Okay. Are you aware of the fact that my client's had -- my client had agreed to comply with the Lee County development code with respect to the lighting that would be used at night?

MR. NOBLE: I'm aware of the conditions that have been agreed to, yes.

MR. MENZIES: Is that the same equipment requirement you would impose on a property owner in Lee County?

MR. NOBLE: Certainly it is.

MR. MENZIES: Okay. Is there anything wrong with it?

MR. NOBLE: There's nothing wrong with that requirement.

MR. MENZIES: Okay.

MR. NOBLE: I think my testimony was more to the location of the use vis-a-vis the neighborhood.

MR. MENZIES: All righty. Again, in your testimony you talk about -- you refer to the prospect of the 24-hour-a-day operation, and you said, "It's a use that can operate 24 hours a day. I know we have conditions here, but I have got to tell you, when the State of Florida comes to the mine operator and says 'I need rock' at 2 a.m., it's been our experience that rock gets delivered."

My question for you is this: Is it your experience in Lee County that when the state or some other agency comes to a mine operator in Lee County, and says "I need rock" at whatever hour of the day, that that mine operator gives them the rock?

MR. NOBLE: I don't personally know of any experiences with that. I know of applications that have relayed that kind of information to us.

MR. MENZIES: You said, "It's been our experience that rock gets delivered." What's your experience?

MR. NOBLE: My experience is reviewing the applications in which people are telling me that that's what happens, that they want to see happen.

MR. MENZIES: Okay. If there was a restriction in Lee County for that kind of operation, to restrict that kind of thing and it happened, what would Lee County do about it?

MR. NOBLE: If -- I mean, you're now talking about a code-enforcement action really.

MR. MENZIES: Would there be a code-enforcement action?

MR. NOBLE: It's one of those things, you know, the code-enforcement officer would have to really witness it.

MR. MENZIES: I understand the factual situation. Let's assume for the sake of argument that a mine operator did violate the terms of and the conditions and deliver rock to the state at three o'clock in the morning on a Saturday or Sunday or any day of the week, would Lee County, if they learned of that, take action to enforce -- to correct that violation?

MR. NOBLE: Perhaps. I mean, it would all be the specifics related to that incident.

MR. MENZIES: By saying that to the commission, did you intend to suggest that my client will deliberately violate the terms of its permit?

MR. NOBLE: No, not really. I think it's the characteristics of the industry, though.

MR. MENZIES: So we have rogue industry we can't control?

MR. NOBLE: No, I didn't say that.

CHAIRMAN STRAIN: Mr. Menzies, kind of stick --

MR. NOBLE: I think that I was testifying to --

CHAIRMAN STRAIN: -- to facts that have been testified to, please.

MR. MENZIES: All right. There's a lot of supposition going on, Mr. Strain.

CHAIRMAN STRAIN: I think we understand that. But factual matter is different than the suppositions you may feel.

MR. MENZIES: Sure. In your testimony, Mr. Noble, you also referred to Corkscrew Road as a residential road. You said it was in a residential road -- it's viewed by Lee County as a residential road. Isn't in true, in fact, that Corkscrew Road, along the boundary of the mine, is an arterial road?

MR. NOBLE: It is an arterial road, but it has been considered in Lee County as a residential road.

MR. MENZIES: Don't arterial roads collect from residential roads; isn't that how it works?

MR. NOBLE: Certainly, it does, and I think that's the point of why the county considers it a residential road. It collects from all of those residential neighborhoods that line up and down Corkscrew Road, such as Burgundy Farms, 6L's.

MR. MENZIES: Right. Sir, can you put up the slide with the -- all the mines, the wells shown, the DR/GR -- the one in your right hand with all the little red dots, yeah, please. Excuse me, the green dots.

Mr. Noble, do you recognize that as the boundary of the DR/GR in Lee County?

MR. NOBLE: I do.

MR. MENZIES: And my client property is the red boundary to the right?

MR. NOBLE: I do, yes.

MR. MENZIES: There was a mine that was discussed real briefly, the Old Corkscrew mine recently in Lee County. Where is that on that drawing, if you could show us?

MR. NOBLE: It would be the other side of Wild Cat Farm, in here.

MR. MENZIES: So Wild Cat Farms is between the mine that Lee County's already approved and the one my client seeks to create?

MR. NOBLE: No. That is a pending application.

MR. MENZIES: Oh, I see, okay.

In your testimony before you talked about the road, the condition of Corkscrew Road, and how it would be damaged or harmed by this haul traffic, and you showed a photograph with the road being rutted, that kind of thing. What kind of traffic uses this road now?

MR. NOBLE: A variety of traffic from the residents to agricultural operations to the one -- in the past the one lone mining operating, the Westwind mine.

MR. MENZIES: And so that haul traffic includes those big semi-tractor trailers hauling citrus, correct?

MR. NOBLE: Sure does.

MR. MENZIES: Sure. And that could contribute to the condition of the road, right?

MR. NOBLE: I'm sure everything contributes to the condition of the road.

MR. MENZIES: Who was responsible for building or improving the road the last time that was done, if you know?

MR. NOBLE: I believe Lee County built the road in the early '90s.

MR. MENZIES: Is it possible, for the sake of argument, that the road wasn't constructed properly or appropriately?

MR. NOBLE: I think that's very positive -- possible that the road wasn't built to withstand haul trucks.

MR. MENZIES: Okay. In your testimony -- this referred to some of the species issues around the mine. You made a statement where you said, "The development of the mine," my client's mine, "will foreclose any possibility of restoring the property in the future for any species." Do you have any basis for that statement?

MR. NOBLE: I think it would be next to impossible to restore the property for any terrestrial species, for example, because it's going to be open water.

MR. MENZIES: So is it your testimony that what -- you said "any species," so is it your testimony that there will be no lifeforms of any kind on the site?

MR. NOBLE: No, of course not. I'm sure there's going to be fish in the lakes at some point.

MR. MENZIES: And what about the reclaimed property after the mine -- the mine operations have stopped; what do you foresee?

MR. NOBLE: I think that's been an issue with our testimony, too, is it takes whatever year till you get to that finished state, that up until that point there's going to be impacts that are not going to be mitigated, such as impacts to the wood storks.

MR. MENZIES: Okay. Mr. Noble, in your testimony you said that you were very concerned about this application because this property was close to your county's DR/GR, which is on the photograph there. And you said, "This is the area in which 80 percent of Lee County gets its drinking water supply, so the county is protective of that area. It's our drinking water source."

If you look at that photograph, those green dots show the existing wells or proposed wells in Lee County for potable water supplies. Is that -- would that be fair statement?

MR. NOBLE: There's a fair statement. There's additional wells to the south, but in that part of the DR/GR, certainly.

MR. MENZIES: And you're familiar with the -- for example, the Bay Meadows Wellfield in Lee County?

MR. NOBLE: Yes.

MR. MENZIES: Many, many of those wells are directly adjacent to or on top of existing mine operations from that photograph; would you agree with me on that?

MR. NOBLE: I would.

MR. MENZIES: And so is it your testimony that removing the wells from my client's site that are used for agricultural purposes and putting in this mine will affect your county's DR/GR water supply sources?

MR. NOBLE: No. I think we've been more concerned with the individual domestic potable-water wells in the area than the actual impacts to the Lee County wellfield.

MR. MENZIES: Okay. But that's not your area of expertise. That would be some other member of your staff?

MR. NOBLE: That would be correct.

MR. MENZIES: Would that be Mr. Muni?

MR. NOBLE: He would be better at those topics than I am.

MR. MENZIES: And I'm almost done, Mr. Noble.

You would agree with me that the Department of Environmental Protection is the sole agency in the State of Florida that has jurisdiction to regulate water uses in Florida?

MR. NOBLE: Well, I mean, the district does water-consumptive permits, too.

MR. MENZIES: Right. But in this instance, my client has an environmental-resource permit, correct?

MR. NOBLE: Correct. I mean, the DEP issues the permits for mines, yes.

MR. MENZIES: Right. And are you aware of the conclusions that are in the ERP that my client received from the DEP?

MR. NOBLE: I believe I read it at one point, yes.

MR. MENZIES: Do you disagree with them?

MR. NOBLE: I am -- I think that would be left best to -- most of those were hydrological in nature.

MR. MENZIES: Do you think that the State DEP doesn't have scientists or experts who are qualified to make these kinds of judgments?

MR. NOBLE: I believe they probably do, and they're looking at their requirements.

MR. MENZIES: Now, you understand that in Collier County, that Collier County defers to the State DEP in these issues?

MR. NOBLE: I totally understand that.

MR. MENZIES: But in Lee County you add a layer of examination through your own environmental department, right?

MR. NOBLE: We do.

MR. MENZIES: And your own environmental department reviewed the Florida Rock mine and concluded that it wouldn't harm the hydrology or the wells in Lee County?

MR. NOBLE: Well, I -- that conclusion hasn't been issued yet, so I wouldn't testify one way or another with that. That's something that's still to come in the next few weeks.

MR. MENZIES: I understand. I don't have any other questions.

Thank you, Mr. Strain.

CHAIRMAN STRAIN: Thank you, sir.

MR. MENZIES: Thank you, Mr. Noble.

CHAIRMAN STRAIN: Matt, I have just two quick questions as a followup. Does Lee County have a noise ordinance?

MR. NOBLE: We do.

CHAIRMAN STRAIN: Have you compared it to Collier County's?

MR. NOBLE: I have not.

CHAIRMAN STRAIN: Okay. Because this mine operating in Collier County would have to be under the requirements of our noise ordinance. But since part of the operation is in your county, it would be interesting to know what your noise ordinance is in regards to this mine as well, if it were to be approved. So I'll probably try to ask others that today and see if we can get any answers.

Also 82, is that a hurricane-evacuation route?

MR. NOBLE: It is.

CHAIRMAN STRAIN: Okay. Have you testified that it's a failed road as it stands today?

MR. NOBLE: Yes.

CHAIRMAN STRAIN: Okay. Then, I'll probably ask maybe the county attorney -- or I'm sure someone will have an opinion. There is a Florida statute, 163.3180(6), that doesn't allow any additional impacts on hurricane-evacuation routes. I'd like to know how -- and it reminds me of the discussion that Chip had when he was here before telling us we can't really do anything about a blasting ordinance.

I mean, I'm not -- I'm not in agreement with him, but if that's correct, if he's correct the state statute is unwavering in regards to what local municipalities can do, well, then I would wonder how that section of Florida Statute on de minimis impacts occur on failed road systems. And so I'll probably seek that answer today from

somebody, because it's an interesting twist to see how you follow that.

Okay. Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Matt, thank you very much for your time.

MR. NOBLE: Thank you.

CHAIRMAN STRAIN: Okay. The next gentleman I'd like to talk to is the hydrologist from Lee County.

Good morning, sir.

MR. KARUNA-MUNI: Good morning.

CHAIRMAN STRAIN: Could you state your name for the record.

MR. KARUNA-MUNI: Anura Karuna-Muni. Lee County natural resources.

CHAIRMAN STRAIN: Thank you. You might want to -- does he need to spell that, or you got it?

THE COURT REPORTER: I have it; thank you.

CHAIRMAN STRAIN: Okay, good.

When you were here before, you showed a picture of a body of water that looked like rolling hills from maybe Maryland or somewhere like that, but I know it wasn't intended to be from another state, but it brought to mind the need -- the amount of sloping that you've discovered or may have discovered on this particular mine site from -- I think the water flows north to south. What kind of slope did you find on that site?

MR. KARUNA-MUNI: According to the applicant's presentation, it goes 6 feet across the mine.

CHAIRMAN STRAIN: So you believe from the north side of the Lost Grove Mine to the south side there's a 6-foot drop?

MR. KARUNA-MUNI: That's what the applicant's testimony said is -- the difference, I think they indicated 32 feet, and it drops to 26 feet.

CHAIRMAN STRAIN: Okay. Because that will be a follow-up question for the applicant then, because that's more of a substantial drop than we normally find and -- from what I'm used to in the state. And it's usually pretty flat around here.

MR. KARUNA-MUNI: I think it was part of their slide presentation; it says 32 feet on the north side and 26 feet on the south side.

CHAIRMAN STRAIN: Okay. And last time you talked a lot about baseline information. Do you have baseline information on this mine?

MR. KARUNA-MUNI: No, we don't.

CHAIRMAN STRAIN: Have you reviewed the ERP?

MR. KARUNA-MUNI: Are you talking about the DEP permit?

CHAIRMAN STRAIN: Yes, the DEP.

MR. KARUNA-MUNI: Yes, I have.

CHAIRMAN STRAIN: Doesn't the ERP contain that baseline information?

MR. KARUNA-MUNI: I did not see it.

CHAIRMAN STRAIN: You did not see it, okay. Do you have baseline information on the other mines in Lee County, for example, the Florida mine that is around the well sites that were shown on this map?

MR. KARUNA-MUNI: That is part of the requirement that -- we request all mine applicants to provide that information before we make a determination of the impacts.

CHAIRMAN STRAIN: In that mine application for the one that's going to potentially be reinstated by the -- your commission, I think it's the Florida Rock. By reinstatement that means the mine probably has already been there for a while. Has much material been excavated from that mine; do you know if they've even started the operation?

MR. KARUNA-MUNI: Maybe that's something Matt can answer.

MR. NOBLE: No. Florida Rock Mine No. 2 is wholly unexcavated at the moment. I mean, it was approved. We had some issues with it. They never obtained some necessary federal permits. They had a period of time it took. I think it was like a decade -- yeah, a decade for them to achieve the federal permits. By that time the county approvals had expired; hence the litigation. But, no, it's wholly unexcavated at the moment.

CHAIRMAN STRAIN: Okay, good. Thank you, sir.

Sir, did you do a hydrological analysis on that Florida Rock mine for their reinstatement?

MR. KARUNA-MUNI: Our staff did it, yeah.

CHAIRMAN STRAIN: Okay. What was the conclusions of that?

MR. KARUNA-MUNI: I don't remember.

CHAIRMAN STRAIN: Okay. The reason that would be relevant is I'm wondering how that differs from the one that you were discussing with us on the Lost Grove Mine. But if you don't remember the one on Florida Rock, then I don't think we can draw the comparison.

Were you at the meeting when Lee County staff met with Collier County staff and met with the applicant?

MR. KARUNA-MUNI: That's correct. That was in October, I believe.

CHAIRMAN STRAIN: Okay. At that meeting I was told in testimony last time, or someone I thought stated it, that Lee County was not able to really weigh in on the various factors involving this mine. There wasn't a lot of, I should say, acceptance or denial. They just kind of went and attended the meeting and weren't able to make any commitments. Is that true?

MR. KARUNA-MUNI: Well, I don't know if that characterization is correct, but --

CHAIRMAN STRAIN: Well, why don't you tell me what happened then.

MR. KARUNA-MUNI: We met with the applicant, and my characterization of the meeting was parties were not willing to cooperate, period.

CHAIRMAN STRAIN: Okay. So even if they had -- if they had come back with, say, alternatives or compromises on some of the position -- because I know Lee County -- we'll be going through it today. Lee County produced a rather lengthy table of their concerns versus the mine's application, and I want to make sure we discuss those at some point.

But if they wanted to discuss some of the compromises that you guys found fault with in their presentation or their application, was Lee County in a position where they could actually come to the table and agree to compromises, or did your staff not have that authority?

MR. KARUNA-MUNI: From the hydrological perspective, we sent this letter out November 24, 2009, to Kay, and it lists what we need to have to analyze and review the file. And the applicant's response was -- if I can put this here.

CHAIRMAN STRAIN: Sure.

MR. KARUNA-MUNI: Sorry. It's in black and white. We are still on budget cuts.

And this was the applicant's response. In the letter dated June 28, 2010, to Collier County Growth Management Division the applicant stated that the applicant does not believe the comments provided by Lee County are required for consideration of this conditional-use application, which means they never responded to our request for information. And without having information, I cannot review, or our staff cannot review the impacts associated with the project.

CHAIRMAN STRAIN: Okay. One thing with Collier County's process, to get a conditional use this board and the board above us can ask basically any questions they want. And if we want to ask about the -- Lee County's concerns, we certainly will. And before the day's over, we'll have those answers in some form or another, because my intention is to go through every one of those questions and understand how they're responded to.

And at the same time, if you guys are still here, we may ask you to join in on some of the discussion.

So -- okay. And I think that's the last -- that's the last question I have. Anybody have any questions of the hydrologist?

(No response.)

CHAIRMAN STRAIN: Okay. Is there any cross-examination? Mr. Menzies?

MR. MENZIES: Thank you, Mr. Strain. Real brief.

Mr. Muni, in your testimony, I understand that you basically had four objections, or thereabouts, to the -- this is from the presentation that you made a couple weeks ago -- that the flattening of the mine lakes would result in a rise in the water table -- water elevation downstream and a drop upstream that might affect the wells over in Wild Cat Farms, that my client had not established the baseline conditions for the water in the area, that my client had not proposed any monitoring to determine adverse effects, and there was no established contingency plan.

Would that be a fair summary of your objections to my client's application as you presented two weeks ago?

MR. KARUNA-MUNI: That is correct.

MR. MENZIES: Okay. Now, before you testified a couple weeks ago, did you review my client's engineer's design plans for this project?

MR. KARUNA-MUNI: What I have with me is the DEP permit information. As I said, we have a whole list of information we requested, which include -- let me see. On Page 4 of that letter it says, complete water-budget analysis for the Corkscrew Swamp and Imperial River Marsh should be submitted to determine whether the proposed mine has a negative impact on surrounding lands, so that's a major --

MR. MENZIES: Sure. My question is this: As part of the application for the environmental-resource permit, my client's engineers designed the aspects of this mine that you're talking about. Did you review the engineer's designs that were part of that application that was approved by the DEP?

MR. KARUNA-MUNI: I never received the design. That's what we asked in our application.

MR. MENZIES: All right. Would you have access to that? Because it would be a public record, right?

MR. KARUNA-MUNI: No. The DEP information is not available to us. Only the permit is available to us.

MR. MENZIES: Okay. Were you aware of the fact that, for example, with respect to monitoring for baseline conditions, that my client had gathered data for over two years prior to the application? Did you know that?

MR. KARUNA-MUNI: I didn't know, and it was never shared with Lee County.

MR. MENZIES: All right. Did you review the water-table contours as part of the permit for the environmental-resource permit?

MR. KARUNA-MUNI: As I said, you know, we do not have that information, and those are the information we requested in our letter of November 24, 2009.

MR. MENZIES: All right. Did you know that the water-table elevations had been monitored extensively as part of that process?

MR. KARUNA-MUNI: Again, that response is, we do not have that information.

MR. MENZIES: Okay. Assuming the DEP had that information and the designs were submitted to the DEP by my client, the DEP made an evaluation and recommended approval of an environmental-resource permit, would you have any reason to disagree with that at all?

MR. KARUNA-MUNI: Without having to see the information, I cannot agree or disagree.

MR. MENZIES: You might have a difference of opinion, but the state DEP has already approved this permit, correct?

MR. KARUNA-MUNI: That's correct.

MR. MENZIES: All right. Now, did you read or review the DEP -- the environmental-resource permit before you made the suggestion that there were no proposed monitoring requirements in this application?

MR. KARUNA-MUNI: There are monitoring requirements listed in the DEP permit.

MR. MENZIES: Right. And those are obligations that my client is required to fulfill, correct?

MR. KARUNA-MUNI: That's correct.

MR. MENZIES: Why did you tell this commission that there were no monitoring requirements?

MR. KARUNA-MUNI: I did not say -- what I said was, there was no baseline-monitoring information available to us to determine whether -- see, without the baseline information, you don't know whether it's good or bad.

MR. MENZIES: Right. Mr. Muni, with respect -- I can get the transcript -- you said, "The applicant failed because there were no baseline conditions established." Do you recall that?

MR. KARUNA-MUNI: What I said was we have not seen the baseline-monitoring information.

MR. MENZIES: Right. And you also -- you also said that my client's application was deficient because there were no contingency plans that were established as part of the process?

MR. KARUNA-MUNI: I have not seen those.

MR. MENZIES: You said there were none. Now you're saying that you don't know because you haven't seen them?

MR. KARUNA-MUNI: Yeah, because I haven't seen -- you know, I have to say -- yeah, I haven't seen it.

MR. MENZIES: Right. And if I showed you the environmental-resource permit which has the monitoring requirements and the contingency plan in it, you wouldn't disagree with what's in this permit, would you?

MR. KARUNA-MUNI: That's correct.

MR. MENZIES: And that would be valid and binding on my client, right?

MR. KARUNA-MUNI: That's correct. For example, let me tell you. The DEP permit does not say, if there is a spill on the mine and if that translate to wells in the residential wells, what kind of process the applicant go through to rectify those wells' contaminations.

MR. MENZIES: Have you read the water-quality violations provisions of the environmental-resource permit?

MR. KARUNA-MUNI: Yes, I have.

MR. MENZIES: Doesn't it provide for immediate -- measures to be taken immediately by the permittee whenever water-quality levels and the water leaving the project area violate water-quality standards?

MR. KARUNA-MUNI: It does, but it doesn't say what are actions need to be taken. It's not specific.

MR. MENZIES: Would you care to -- I'll defer to the environmental-resource permit. This specifically is Paragraphs 39, 40, 41, on Pages 23 and 24 of the environmental-resource permit which provides for specific steps within a number of hours of events occurring for remedial action to be taken, provides for other water-quality reports, stormwater-system inspections, pumps, modify the application if necessary within so many days.

It's your testimony that's not sufficient?

MR. KARUNA-MUNI: For example, let me tell you, if the water level drops on the residential wells, the DEP permit is -- does not talk anything about, okay, what happens if the water level drops.

MR. MENZIES: Let me ask you this: Isn't it true that the water flows across my client's property to the southwest basically? The water -- those are the water flows generally?

MR. KARUNA-MUNI: No. It flows from northwest to southeast.

MR. MENZIES: Correct. And there are no -- and to the southeast are the CREW lands adjacent to my client's property, right?

MR. KARUNA-MUNI: That's correct.

MR. MENZIES: And aren't you aware of the fact that the DEP environmental-resource permit says and concludes that this mine and removal of the agricultural wells would include the water quality in the CREW land?

MR. KARUNA-MUNI: As I explained in my explanation -- in my presentation, the CREW land is going to be benefited, what you are going to do, and that's what the DEP permit identified, but it does not talk about the upstream's impact.

MR. MENZIES: Let me ask you this --

MR. KARUNA-MUNI: Let me add one more thing. When you increase the water level on the downstream side, you're going to have impacts on the septic tanks because your water levels are higher than it used to, so people have problems in flushing their septic system.

MR. MENZIES: What residences are on the flow by the CREW lands? What septic tanks are on the CREW lands?

MR. KARUNA-MUNI: Not to the CREW land, but on the south side of the property.

MR. MENZIES: Okay. Since you haven't reviewed the engineering data for the contours, the sheet flows, all those kinds of things, you can't sit here today and tell the commission that you know how this mine and its water levels or the lake levels will affect the property owners in Wild Cat Farms, can you?

MR. KARUNA-MUNI: That's correct. Only what I can talk is, conceptually, what happens when this kind of mine is put in place.

MR. MENZIES: And, practically speaking, other people have done the analysis that you have not done, right?

MR. KARUNA-MUNI: I don't disagree. I haven't seen it.

MR. MENZIES: Thank you. I don't have anything else, Mr. Strain.

CHAIRMAN STRAIN: Thank you. Follow-up, Brad?

COMMISSIONER SCHIFFER: Yeah. I'm not sure I understand the concern you have with the septic tanks. That would only be if the water level rose on the adjoining sites; is that right?

MR. KARUNA-MUNI: Yeah, only if the water level rises. And as I said in presentation, I had a slide that shows typically -- you know, again, this is conceptual. Without having specific data, specific numbers, I cannot say how many feet goes up and how many feet goes down.

So if you're on the downstream side, the likelihood is your septic system is going to be flooded because you have higher level of water than it used to be.

COMMISSIONER SCHIFFER: All right. Thank you.

CHAIRMAN STRAIN: Anybody else? Sir, I've got just a follow-up, and it kind of goes in the direction Brad was asking. The control elevation of the mine water, do you have an idea what that is?

MR. KARUNA-MUNI: I don't remember.

CHAIRMAN STRAIN: Okay. The control elevation of the water -- the water table in that area, will the control elevation more or less follow the water-table elevation?

MR. KARUNA-MUNI: Control elevation is something that's been set by a permit.

CHAIRMAN STRAIN: Right. I mean, the reason I'm asking is, if you have a septic tank -- in Collier County septic tanks have a required minimum height above the nearest crown of the road, or they use an NGVD or some other standard to make sure that the height of those drainfields and septic systems are above any water table so that there's plenty of hydrology to make sure that it percolates right and goes down.

MR. KARUNA-MUNI: That is a useful practice.

CHAIRMAN STRAIN: Do you know if any of the septic systems in this -- in any of the adjoining residential areas have been placed in positions that would be below the water table?

MR. KARUNA-MUNI: I do not know. What I said was, if the mine is put in place, the water level on the south side's going to rise than it used to be (sic). So let's say -- for example, let's say you -- the Collier County's -- the crescent is okay (sic). I mean, they approve the septic systems. The water level is -- you know, the highest level you can rise is 22, for the sake of argument. So the residents put the septic and drainfield system -- and that is what they're looking at, 22, okay.

Now, you put the mine in, now your elevation is 23 because water level rises from the downstream side. So the septic system is not -- is functioning as it used to be (sic).

CHAIRMAN STRAIN: Do you know if -- the standards you're kind of alluding to, one being a foot higher than the way the septic may have been constructed, do you know if the mine will cause that much of an extreme differential based on the way it's designed and permitted?

MR. KARUNA-MUNI: It's -- I cannot tell the specifics, because we not -- we did not receive the information that we need to be reviewing. You know, what I can say is, conceptually, it is going to. That's what we have seen in other mines.

CHAIRMAN STRAIN: Okay.

MR. KARUNA-MUNI: And that's what also has been determined by the DHI model that was included. One of the recommendations in the -- one of the findings in the DHI study was the water level rises on the downstream side of a mine.

CHAIRMAN STRAIN: Okay. And you said you've experienced that in other mines. Other mines in Lee County?

MR. KARUNA-MUNI: That's correct.

CHAIRMAN STRAIN: Do you know which ones?

MR. KARUNA-MUNI: I don't recall.

CHAIRMAN STRAIN: Okay. And one other point. The DEP has a permitting portal that you can go to and pull off just about any project going on as far as how their permitting is, and in the portal, if you click on some of the files, they have every piece of correspondence, all the backup data, all the various levels of applications, the reapplications, the RFIs, everything is there, and it's public record. I -- you know, I mean, I review it periodically for projects coming before this board as well. I didn't know if you were aware of that or not, but you may want to get that -- go to the DEP site and take a look at their permitting portal, because you'll find, county by county, a lot of information there that you probably could have used.

Anybody? Phil?

COMMISSIONER BROUGHAM: Mark, just a quick question. Just for clarity, I thought I heard two different things. What is the direction of the waterflow across this property, proposed property?

MR. KARUNA-MUNI: It's generally north/south direction, but I would say more towards the northwest to southeast alignment. You know, primarily like north to south, but if you look at it a little bit more close, it's more like northwest to southeast.

COMMISSIONER BROUGHAM: Southeast is the CREW lands; is that correct?

MR. KARUNA-MUNI: That's correct.

CHAIRMAN STRAIN: Southeast, yes.

COMMISSIONER BROUGHAM: There aren't many septic systems in the CREW lands?

MR. KARUNA-MUNI: No. I don't see.

COMMISSIONER BROUGHAM: Thank you.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Oh, one more, sir. Brad?

COMMISSIONER SCHIFFER: Sorry. Obviously we start with a base condition with the hydrology. During the mining operation, you're citing that that can change by the activity of the mining, by the opening of lakes and things. Once it's done, does it stay stable at that point? In other words, the mining activity's over, the 30-years-plus, then it stabilizes again; is that right?

MR. KARUNA-MUNI: You will see the baseline conditions -- see, as I said in my presentation, the hydrology or the groundwater water levels depends on the topography, the ground elevations. The water level pretty much follows the ground elevations.

So you change the ground, you're going to change the water levels. And unless you put that mine back in, you know, you permanently change the hydrology in that area.

COMMISSIONER SCHIFFER: Okay. I'm not saying it would ever go back to base, but the point is that the only changes would occur during the activity of the mining.

MR. KARUNA-MUNI: During the activity of the mining, there's a transition period where it will change to whatever the changes that's going to occur in the land.

COMMISSIONER SCHIFFER: Okay. Thank you.

CHAIRMAN STRAIN: Sir, do you know what the water table is, the general water table in that area where -- the elevation below surface?

MR. KARUNA-MUNI: No, I don't recall.

CHAIRMAN STRAIN: Okay. Do you know what it is in any part of the DR/GR or in adjoining areas, for example?

MR. KARUNA-MUNI: The water table varies with the -- during the year.

CHAIRMAN STRAIN: I understand.

MR. KARUNA-MUNI: Yeah.

CHAIRMAN STRAIN: So let's take the worst-case scenario. Where do you see the water table in most of the -- say, in the agricultural land that's actively agricultural, which means it isn't bogs, it isn't swamps, it isn't wetlands. In that land you have a dry surface, and somewhere below that dry surface you have water table.

MR. KARUNA-MUNI: That's correct.

CHAIRMAN STRAIN: Do you know the range in which you normally would find that water table even, say, during the wet season?

MR. KARUNA-MUNI: In Lee County it can be anywhere from a foot above the water -- foot above the ground level to 10 feet below the ground level. It varies a lot. And we have -- we conducted a study some time back. We had a rain gauge, and the rain gauge measures water level every 15 minutes. And then we have had a groundwater well at the very close proximity, and we were measuring also the groundwater levels every 15 minutes.

And we had that -- then we look at the two. The rainfall information and the groundwater fluctuation, it pretty much follows the two together.

CHAIRMAN STRAIN: Okay. Do you know how far above the water table the requirements are for a septic drainfield to be set?

MR. KARUNA-MUNI: I don't recall.

CHAIRMAN STRAIN: Okay. Well, maybe someone else in your department or from your county will.

Okay. Thank you very much, sir. Appreciate your time.

Lady from the environmental department, if you don't mind.

MS. SWEIGERT: Good morning. I'm Becky Sweigert.

CHAIRMAN STRAIN: Thank you, Becky.

During your presentation you talked about a reclamation plan for wood storks -- wood stork foraging. Was that in reference to this particular project?

MS. SWEIGERT: No, that would be a general slope area to provide undulating pockets for the wood storks to feed in.

CHAIRMAN STRAIN: And has that been enforced in mines in Lee County?

MS. SWEIGERT: Yes.

CHAIRMAN STRAIN: Do you -- I'm trying to understand what it is. I know what littoral zones are, and I know that when you cut a lake, usually it's 4-1, and you get to a break point, then you go 2-1 after that. But how -- what kind of sloping are you looking at, and to what extent are you looking at the sloping?

MS. SWEIGERT: The sloping should be a little more gentle, maybe something at an 8-1 or 10-1 slope, and it would create pockets where it would actually pool water when the control elevation would drop, and it would have a place that could congregate the fish, and the wood stork could come in and feed there, and it would be, you know, maybe 16 inches deep, you know. And it would be -- it wouldn't just be your gentle slope all around. It would create, you know, pockets for that area. It wouldn't -- and it doesn't have to be around the entire lake edge.

CHAIRMAN STRAIN: How big are these areas?

MS. SWEIGERT: Fifty feet wide, some of them, 50 to 100.

CHAIRMAN STRAIN: By length, how long?

MS. SWEIGERT: Again, couple hundred feet maybe.

CHAIRMAN STRAIN: Okay. And so you have -- these are -- from your department, when you review a mine in Lee County -- and I -- it's fair to say you require some of these areas to be constructed?

MS. SWEIGERT: Yes. It is a requirement of our code now.

CHAIRMAN STRAIN: Okay. Because in the Jones Mine we had a -- let's say, an alternative to your -- we have a concentration of littoral zone in the Jones Mine of some numbers of acres. So looking at something for this mine, that it functions as it should, may not be a bad idea. I wanted to understand it if it gets that far.

Are you familiar with any of the water-table issues that you heard me ask the gentleman from the hydrology about?

MS. SWEIGERT: No, that was really more Anura's.

CHAIRMAN STRAIN: Okay. Are you familiar with the DEP portal that has the permitting locations online?

MS. SWEIGERT: I am familiar with their website. I use some of their FTP information to download. I do find that not all information is always there, or it's there after the permit's been issued. So I do have trouble getting some of their information during the review process.

CHAIRMAN STRAIN: But those permits are usually issued before you issue yours?

MS. SWEIGERT: Sometimes, yes.

CHAIRMAN STRAIN: I'll say, I can tell you, they're there before -- they're issued before we issue ours.

MS. SWEIGERT: Uh-huh.

CHAIRMAN STRAIN: So, in essence, then the permits usually are there. I didn't remember checking this one specifically, but I know I've used it many times.

That's all the hydrol- -- all I've got since you're not -- Diane?

COMMISSIONER EBERT: I do have a question.

Becky, has anyone in Lee County -- I noticed yesterday when I was out there that there are quite a few -- a lot of grazing cattle and stuff. Has anybody done anything as to the effects of the blasting has -- on the animals out in the area?

MS. SWEIGERT: We've spent a lot of time trying to research that as well, effects of blasting on just wildlife in general. There's really not a lot of studies, even in the national area looking at the effects of that, so --

COMMISSIONER EBERT: Okay. It was a question that I had. Thank you.

CHAIRMAN STRAIN: I have one more. Panther.

MS. SWEIGERT: Yes.

CHAIRMAN STRAIN: This particular mine application has a small area of panther -- of primary in the southeast corner. In the maps that were supplied to us by the applicant, they had an overlap of panther primary in the area of Lee County where the wells -- where the mines are being considered that have not yet been approved. And in -- particularly, the Old Corkscrew Plantation mine and Troyer Brothers. And I -- you know, they're part of our Planning Commission packet, so it's easy to be seen. What kind of panther mitigation did your department require for those -- for that habitat being in that mine area, or how did you approach those?

MS. SWEIGERT: Well, Troyer Brothers is a recommendation of denial, which is going to our board next week.

CHAIRMAN STRAIN: Well, let's stop there then. Does that recommendation of denial have any recommendations from your department?

MS. SWEIGERT: It does not include any additional conditions. It's a recommendation of denial.

CHAIRMAN STRAIN: Okay. But when your department reviewed it, did you recommend -- did you support the denial?

MS. SWEIGERT: We recommended denial from environmental staff, yes.

CHAIRMAN STRAIN: Okay. And the specific purposes for that denial was panther habitat?

MS. SWEIGERT: It included general impacts to wildlife and disconnection for wildlife movement between two public lands.

CHAIRMAN STRAIN: Okay. And then what about the next one?

MS. SWEIGERT: Old Corkscrew Plantation is still under review. We've only reviewed it, I believe, one time. We've had one --

CHAIRMAN STRAIN: Okay. During that review did you guys find problems with the panther habitat on that one?

MS. SWEIGERT: We asked questions about their wildlife impacts, yes.

CHAIRMAN STRAIN: Okay. Is that the kind of process that you normally solve with mitigation, or is it -- you just don't allow development in primary panther habitat?

MS. SWEIGERT: We look at the specific issues of the project and the location, you know, I mean -- and ask the questions from there. I mean -- so --

CHAIRMAN STRAIN: Okay. Anybody else have any questions? Is there any cross-exam?

MR. MENZIES: No. Thank you.

CHAIRMAN STRAIN: No. You're saved.

MS. SWEIGERT: Thanks. It was my three-minute presentation.

CHAIRMAN STRAIN: Thank you. By the way, if you have anything you wanted to add to your presentation that you were rushed through before, you're more than welcome to do it today, as is the hydrologist, so --

MS. SWEIGERT: No. I believed I covered it, so -- thank you, though.

CHAIRMAN STRAIN: You're welcome.

Okay. Normally we would go from applicant's presentation when we had our staff -- Kay, you already completed your presentation?

MS. DESELEM: Yes, sir.

CHAIRMAN STRAIN: Lee County's preceded theirs. So we normally go into question and answers from the Planning Commission and staff, but I think at this point if we went into public speakers it would be more valuable to us, and then ask any of our remaining questions after we get done with the public speakers.

Does that seem fair? Paul.

COMMISSIONER MIDNEY: I'm not sure the place for this, but I know there was a neighborhood information meeting in Lee County, and we never heard about it. Maybe the Lee County people would talk about that.

CHAIRMAN STRAIN: Kay, were you -- did you attend that meeting?

MS. DESELEM: For the record, Kay Deselem. No, I did not.

CHAIRMAN STRAIN: Okay. It is a part -- you have a significant part of it, I think, referenced in your recommendations, or part of it. I thought it said it was from that meeting.

MS. DESELEM: We had a neighborhood information in Collier County, and several persons who said they reside in Lee County did attend that meeting.

CHAIRMAN STRAIN: Okay. Under your recommendations, No. 2, it says, as committed to during the Lee County neighborhood information meeting as part of the applicant's PowerPoint presentation, the following are conditions of the proposed mining operation. So that information you didn't get from attending the meeting; you got from the applicant's PowerPoint presentation?

MS. DESELEM: That actually came out of a memo from Chip Block, and he represented that that's what had occurred on his letter of, I think, September of this year.

CHAIRMAN STRAIN: Okay. And did you -- so you understood that these were presented and volunteered by the applicant typical to what applicants would do at NIMs in Collier County?

MS. DESELEM: According to Chip, yes.

CHAIRMAN STRAIN: Paul, that information is in the staff report. It's quite a few pages. Did you need more than that, or --

COMMISSIONER MIDNEY: No.

CHAIRMAN STRAIN: Okay. I just wanted to see where it lies.

Okay. With that, we will -- now, first of all, we take a break at an hour and a half for the court reporter throughout the day, and then we have a lunch. So we're going to continue till about 10:30, and then we will break for 15 minutes. So between now and then we'll start taking public speakers. We'll first use the public speakers that have been registered, and then we will -- I will ask generally from the public who would like to speak.

I ask that you limit your presentation to five minutes. Obviously if that isn't enough, we are pretty lenient with our time, but we ask you not to be redundant and stay focused on the issue at hand.

Okay. Ray -- and as the speakers are called, you need to come to either Mike and just identify yourself for the record and then start -- make your presentation.

MR. BELLOWS: Donald Eslick.

MR. ESLICK: Good morning, Commissioners. I'm Don Eslick. I'm chairman of the Estero Council of Community Leaders, and I have a letter that I'd like to put in the record from one of our members who was here last time, stayed all day and couldn't testify and can't be here today, so I'd just like to, if I could --

CHAIRMAN STRAIN: Yeah. The young lady right there is our court reporter. She gets all the record. If you want to put it on the overhead for -- while you're reading it.

MR. ESLICK: No. I wasn't going to read it. I was just going to put that in the record.

CHAIRMAN STRAIN: Okay. Just leave it with her when you finish speaking.

MR. ESLICK: I'm here today representing the Estero community who has been involved in mining issues in South Lee County for the last four or five years.

We are downstream. Estero is a community that's grown from about 15,000 in 2000 to about 40,000 today. And we're immediately downstream of all of these different mines, including Lost Grove, you know, toward -- all the water that comes through that area ends up in Estero Bay.

And our concern really relates a lot to the impact that mines have on the water and the wetlands in that area.

You're obviously getting rid of some wetlands. You're impacting other wetlands in the area. Those wetlands are very, very important in terms of storing water, which helps to recharge the aquifers. It also tends to clean the water as it's going toward the bay. So we're impacted, and it helps from a respect of diminishing the potential impact of flooding. So that's why our community has been involved in this endlessly over the last four or five years.

I happen to have been chosen by the Lee County board to serve on the DR/GR Advisory Committee. This goes back to 2007. So we've had an extensive involvement in all of this.

That Comprehensive Plan change is very, very important. It was -- the original planning for this area was adopted in '89 and did not distinguish the uses of property throughout this whole 82,000-acre area, so that residential could be right next to mining and agriculture, et cetera. Those were the three primary uses. Some recreational uses were added after that for golf courses and that type of thing.

But the failure of the original zoning prior to this Comp Plan change that we've been going through the last four or five years, to separate the uses was really catastrophic.

And then, of course, in recent years there was a federal court case over in the Miami-Dade area where there was a question about whether or not mining could continue in that area because of potential contamination of the water supply.

So all of a sudden everybody who owned land over here that had rock under that land wanted to come in for -- to be able to mine that land.

So the Comp Plan that we have been working on all these years, based upon an analysis of the demand and supply of rock available to this whole region, of which we've been supplying 80 percent of all the region all the way to Sarasota County, that we could continue to do that for the next 20 or 30 years with the area up there around Alico Road.

And that area is serviced by a major roadway that was built in order to handle all this kind of truck traffic and that type of thing. Made a lot of sense. The infrastructure was there; whereas, all of these mine applications -- we have five or six of them, this being one of them. The only one that's not in Lee County -- all of them along Corkscrew

Road, that road is totally not the same caliber as what you have up there. So you've got insufficient infrastructure in order to operate this kind of industrial use. And you've seen a lot of this information, et cetera.

So I'm here basically to speak for the community that's been concerned, been involved in trying to deal with this in a responsible manner, as I think Lee County has done, to be able to designate a mining area that will allow us to continue to be the major supplier of limerock and aggregate for the whole region for the foreseeable future while, at the same time, restoring the flowways that have been so disrupted out there in other uses, primarily mining.

But -- and the area that is immediately west of the Lost Grove Mine is to be restored as flowways going down into the Imperial River in Bonita, the Estero River, and the other flowways that come through our community.

So I would urge you to deny this application or to urge your board -- recommend to your board that it be denied. And I thank you very much for the opportunity to speak.

CHAIRMAN STRAIN: I've got a couple questions.

Ray, could you put the map up of Lee County's mines, the yellow -- it had a lot of yellow on it.

Where's the Estero basin -- oh, back off of it a bit, if you could, Ray, so we can see where -- where's the Estero area that you're talking about? I'm not familiar with Lee County.

MR. ESLICK: If you look at the big yellow parcel there in the bottom, that's the 6L Mines. That's another pending mine.

CHAIRMAN STRAIN: Okay.

MR. ESLICK: And the north end of that, if I read the map correctly, is Corkscrew Road. And it continues straight west, and then it goes a little bit to the southwest.

CHAIRMAN STRAIN: Yep.

MR. ESLICK: And so the Estero area is immediately west of that -- of the -- all kind of the southern portion of that map.

CHAIRMAN STRAIN: Okay. Now, the mine that's in application today, I believe, drains into the CREW lands. It goes northwest to southeast. So is that really going to have an impact on your Estero basin?

MR. ESLICK: I'm not certain. I'm not a hydrologist on that. But CREW itself is a very, very important storage area for the area.

CHAIRMAN STRAIN: I'm not disagreeing with that. I'm just trying to understand what you said versus how it fits on this map, so --

MR. ESLICK: Yeah. Again, I'm not a hydrologist, and this one may not have as much of an impact from that perspective as some of the others would. But being immediately adjacent to the area where we're going to try to restore some flowways, it doesn't make a whole lot of sense to me.

CHAIRMAN STRAIN: You said something else that I want to understand. You said that they're trying to create an area that is going to be able to exclusively provide the soils or the mining excavation for the entire area.

MR. ESLICK: Yeah. The -- if you look at the top of the map where you're looking at Florida Rock No. 2, and if you -- if you look at the other areas that are light green on that map up there, the light-green portion are areas that have already been mined that are excavated. There are many of them that are not fully utilized at this point in time, but all of them are included in this mining overlay.

Some of them are -- come down toward Corkscrew. The Yunquist mine, for example, is on Alico Road, not far north of Corkscrew. Most of them -- but Alico Road is up there toward the Florida Rock No. 2, okay.

And so the -- I wish we had that map here to show you where the future limerock mining overlay is located, but it is up in that western, northern -- northern and western portion of the mining area that you see on that map.

CHAIRMAN STRAIN: So when you said these mines are going to, you know, serve the area, does that area include Collier County in your mind?

MR. ESLICK: Oh, absolutely, absolutely. We have supplied from -- about 4,500 acres has been excavated in Lee County in the last 20 to 30 years, and Lee County -- these mines in this area have provided 80 percent of all of the limerock needs from Sarasota to Collier, all seven counties, including Hendry and Glades County.

CHAIRMAN STRAIN: Okay. So if we follow your philosophy, because Lee County can supply all the material needs, then we shouldn't allow any mines in Collier County?

MR. ESLICK: Well, that's entirely up to you. We'd be happy to have you supply more of the rock. But the bottom line is, in addition to this -- there's only four major mining companies in the world, and they own a lot of property and they have -- they planned well in advance.

And the Port of Manatee and the Port of Tampa have greatly expanded their capacity to import rock, and that source ought to be able to supply a lot of that at the northern end of the market area where we have been providing it.

All I'm saying is this: That in planning for the future growth of the area, Lee County has agreed to be able to continue to provide 80 percent of all the rock needed for these seven counties through 2030 --

CHAIRMAN STRAIN: Okay. And I didn't want --

MR. ESLICK: -- without having these additional mines down along Corkscrew.

CHAIRMAN STRAIN: I didn't want to interrupt your discussion, but --

MR. ESLICK: Sorry.

CHAIRMAN STRAIN: Ray, would you take that off the -- that's kind of unfair just to have someone in the audience set stuff on the present- --

MS. JOHNSON: I'm sorry.

CHAIRMAN STRAIN: Let's just wait till each person has their presentation to bring their own materials up. Okay. Does that -- are you -- unless there's any other questions, sir, I think we're done.

MR. ESLICK: Thank you very much.

CHAIRMAN STRAIN: Thank you.

MR. ESLICK: Appreciate your time. I'll turn this in.

CHAIRMAN STRAIN: Yes, to this young lady right here.

MR. ESLICK: Thank you.

CHAIRMAN STRAIN: Okay. Next speaker, Ray.

MR. BELLOWS: Brenda Brooks.

MS. BROOKS: Good morning. Thank you for allowing me to be here. My name is Brenda Brooks. I am the executive director of CREW Land and Water Trust.

The mission of the CREW Land and Water Trust since 1989 has been to preserve and to protect the water resources and the natural communities in and around the CREW area, which is Corkscrew Regional eco-system watershed. I'm hoping you all know what that is. This is a 60,000-acre watershed that spans Lee and Collier Counties.

The proposed mine, as you already know, is complete -- is immediately adjacent to CREW; therefore, the CREW Trust does have some concerns.

Alico has approached our board, and they have presented to our board several times. They've responded to many of our questions.

CREW's public lands has been a valuable investment over the years. Funds to support this project have come from the federal level, the state, the local, as well as other organizations other than the CREW Trust, and certainly individuals.

Last year we had over 8,000 people that visited CREW, many of which were students on environmental-education field trips, of which over half of those have come from Collier County.

A majority of the human activity, therefore, is going to be during the day, which would be the exact same time that the mining activity is going to occur. That in -- for that reason, we definitely have concerns with noise and traffic.

We have been in contact, as I mentioned, with Alico. We hope to continue to work with them regarding our concerns. But I just wanted, on the record, to let you know that the CREW Trust does have concerns.

Thank you for your time.

CHAIRMAN STRAIN: Okay. Paul?

COMMISSIONER MIDNEY: Could you talk a little bit about what the percentage of the land where the hiking trails are that are pine flatwoods?

MS. BROOKS: Oh, the percentage of that. Well, we look at the overall CREW project of which, again, this -- some of this is going to be adjacent. It's going to be available off of Bonita Beach Road. It's going to be accessible off of Immokalee Road.

COMMISSIONER MIDNEY: Well, I'm talking about the part that's near the mine.

MS. BROOKS: I don't have those stats right in front of me.

COMMISSIONER MIDNEY: Well, I spent a lot of time hiking those trails. It seems like most of them, or a great part of them, go through the pine flatwoods.

MS. BROOKS: Immediately adjacent, you're right, before you get to that 5,000-acre -- the CREW marsh area.

COMMISSIONER MIDNEY: And can you talk about how those are managed with controlled burns.

MS. BROOKS: Yes. They've been actively managed this year. Prescribed burns is a very important part of our land-management regime. That is all done by the South Florida Water Management District.

COMMISSIONER MIDNEY: And how does that affect the sound, the way that you've maintained the land, the sound conductivity which would be if there were mining operations close by?

MS. BROOKS: I don't understand your question. Meaning, when we burn, that vegetation is taken down so quickly, is that what you mean?

COMMISSIONER MIDNEY: No. Actually the point I'm trying to make is that when the land was originally purchased from Alico, it was logged and the pine flatwoods were not in a -- the best condition.

MS. BROOKS: Exactly.

COMMISSIONER MIDNEY: But since you've been burning it, about every three years --

MS. BROOKS: Right.

COMMISSIONER MIDNEY: -- it's more like a park-like atmosphere.

MS. BROOKS: It is. Historically, pine flatwoods were burned on a three-to-five-year period. That particular area, because it's adjacent to Corkscrew Road, we've had a hard time burning it just because of smoke management. That's a number-one concern.

Those lands have just -- all along Corkscrew have been -- we picked up a different fire regime, so this year we did -- we did some summer burns, and that area's all just been burned. And we would hope to be able to maintain that now on a three-to-five-year cycle.

But, yes, as a result we've gone in and -- they've done some roller chopping in that area to try to mimic the natural regime of fire. But it is; it's very much a parklike setting.

You know, it's a very far place to go to think that we had over 8,000 people, and they go because it's a quiet place. It's a -- you know, it's those environmentally-sensitive lands that -- those green spaces that we now try to connect with.

COMMISSIONER MIDNEY: Yeah. And I, myself, and my family have gone there many times. Usually we don't sign in. In fact, you even told us.

MS. BROOKS: Did I? Yeah, that would be like me. I can see I wasn't effective.

COMMISSIONER MIDNEY: Yeah. No, you weren't effective. So I think the estimates of the people is probably more than 8,000.

But what happens is now, because it's burned and because there's not a lot of understory, the pines are getting bigger, it's shading it out more. You can really hear things very well. But when you get one or two feet along the trails, all you can hear is the wind in the pine trees. And that's a concern of mine about how the sound is going to be changed and the enjoyment of the natural area will be changed once you have -- if mining is permitted to go in there.

I guess that was my comments and questions.

MS. BROOKS: And maybe the next time you can fill out a card, my 8,000 figure can go up.

COMMISSIONER MIDNEY: From now on I'm going to do it. I didn't realize how important it was.

MS. BROOKS: I told you.

CHAIRMAN STRAIN: Anybody else? Diane.

COMMISSIONER EBERT: I do have a question. The way the waterflow is from the northwest to the southeast -- I happened to tour the area yesterday, and I noticed the marshlands, and it all goes towards Lake Trafford.

MS. BROOKS: That is not correct.

COMMISSIONER EBERT: That is not correct?

MS. BROOKS: There is a portion that -- yes. Keep in mind that CREW -- there's two outlets for CREW, some of which the water will come down in that sheet-flow manner down through Corkscrew Swamp Sanctuary, out through Imperial River, some Estero -- and out into Estero Bay, and then, yes, there is some of the water as well that goes through Lake Trafford, Camp Keais Strand, and that connects into the western Everglades.

COMMISSIONER EBERT: Okay. So what I was with yesterday (sic), where the -- and I was up to the marshlands. They said the -- that there is a -- it was a downward slope and that that does go to Lake Trafford.

MS. BROOKS: Yes. The majority of that area -- and, again, I'm looking at the CREW project, so a portion

of that. But, yes, you're right. That area would go down to Lake Trafford and Camp Keais Strand.

COMMISSIONER EBERT: Okay. Because that is -- and I noticed there was a big culvert in the road. There was a very active stream yesterday right across from the Alico -- from the one side of the street to the other, and it was -- it really looked like a very nice creek area, and that ran through private property and then went towards the marsh area, so that's why I was asking you on these questions.

Thank you.

MS. BROOKS: Thank you.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: You mentioned that you had trouble burning the way that you wanted to burn. What rights do you have actually to burn that in order to preserve the natural pine flatwoods as they historically have been, and what are the restrictions that you have now?

MS. BROOKS: The restrictions -- and, again, I'm speaking on behalf of the South Florida Water Management District as a partner with them and as a prescribed burner myself that is often out on that team. We get our department -- our permits from DOF a lot. And there -- when we do a prescribed burn, there are many different aspects to be within that prescription.

So in the past it's just been very difficult. Our number-one issue, because we couldn't get the permit, was because of smoke management.

COMMISSIONER MIDNEY: But there's nobody that's really living close to where you're going to be burning?

MS. BROOKS: No, it's the road. It's the concern of the road. We wouldn't want to have smoke management have to have an issue on the road and to have to close Corkscrew Road.

It's not -- the people that live in the area, generally, are very, very well informed of the value of prescribed burns. So it's not a human issue, because the Corkscrew folks have always been very supportive.

COMMISSIONER MIDNEY: Do you think that if a mine went in, that that would place further restrictions on your ability to manage the property by controlled burns?

MS. BROOKS: I don't think that would have any issue on prescribed burns.

COMMISSIONER MIDNEY: Because the road is -- already there is a problem?

MS. BROOKS: Exactly.

COMMISSIONER MIDNEY: Okay.

CHAIRMAN STRAIN: Anybody else? I've got a couple.

Ray, could you put that map up that I supplied, the other one. It has a little clearer location that I want to point out. Yes, sir, thank you. Slide it all the way down so I can see below that green triangle where the mine is.

Okay. That shows Corkscrew Road over where the mine's located. In the lower right-hand corner that's the CREW lands, I believe, you're speaking of.

MS. BROOKS: Yes.

CHAIRMAN STRAIN: Okay. How far up to the north towards Corkscrew Road do you have facilities within those CREW lands shown on this map?

MS. BROOKS: How far north?

CHAIRMAN STRAIN: I mean, do you have anything in that area shown on the map, in your portion of the CREW?

MS. BROOKS: I'm not quite sure what you're asking, but where it says Corkscrew Road, go up to around maybe the K to the S --

CHAIRMAN STRAIN: Yes.

MS. BROOKS: -- and that would be the property boundary of the CREW project in that area.

CHAIRMAN STRAIN: Okay. Do you have any facilities in that area?

MS. BROOKS: That's where we -- right across from the proposed mine is where a majority of people come to our trailheads. We have two trailheads, of which one is directly across from the mine. We have another one we've recently opened two years ago, and that would be farther west on Corkscrew Road.

CHAIRMAN STRAIN: Okay. And you -- I heard you say you're partners with South Florida Water Management District?

MS. BROOKS: Well, we are -- we work closely with South Florida Water Management. They are the

leading agency on the CREW project. But the CREW project is huge. It's been around since 1989, and there's many, many different partners.

CHAIRMAN STRAIN: But your partnership with South Florida Water Management District, does that involve them contacting you about permitting applications within the area of CREW or close by or adjacent to CREW? Did they contact you about this mine at the time they were doing the permitting --

MS. BROOKS: No. The CREW Trust has always been very active with our mission to preserve and protect that watershed.

CHAIRMAN STRAIN: Okay. Did you weigh in on the South Florida permit for this mine?

MS. BROOKS: No. We had a meeting -- I scheduled a meeting at our office, and we invited the folks from South Florida Water Management District, and they were there.

CHAIRMAN STRAIN: Okay. Were you objecting to their issuance of any of their permit, the ERP permit or anything?

MS. BROOKS: At that point we were just asking a lot of questions. We were trying to find out what was going on.

CHAIRMAN STRAIN: Well, I would assume then you may have found out something. Did you follow up with any objections to this mine --

MS. BROOKS: We are working on that. And I speak on behalf of the -- for my entire CREW board. At this point we are simply stating that we have concerns.

CHAIRMAN STRAIN: Okay. Did you state that before the ERP was issued?

MS. BROOKS: Yes.

CHAIRMAN STRAIN: Okay. And they still issued the ERP?

MS. BROOKS: Yes.

CHAIRMAN STRAIN: Okay. I'm just curious --

MS. BROOKS: Yes.

CHAIRMAN STRAIN: -- as to your involvement. Because it would seem to me if they're partners with that agency, your emphasis --

MS. BROOKS: Not -- well, I shouldn't say -- we're partners in some respects, not in that -- we do public-education outreach. We did a lot of outreach ourselves, but with that we would not -- we would have had several meetings with them, but we certainly wouldn't tell the South Florida Water Management District to do this or not do that. I mean, we use this outlet to be able to come to Collier County to address those issues.

CHAIRMAN STRAIN: Okay. Had you addressed it at the ERP level, it might have been --

MS. BROOKS: Yes.

CHAIRMAN STRAIN: -- of greater assistance than waiting longer, because now when a permit's already issued, it's awful hard to undo something. But maybe in the future you would consider intervening at an earlier time to

--

MS. BROOKS: Thank you.

CHAIRMAN STRAIN: -- express your concerns. You might get a better result.

Okay. So anybody else? Paul?

COMMISSIONER MIDNEY: I'm sorry. I keep coming back.

CHAIRMAN STRAIN: That's okay.

COMMISSIONER MIDNEY: Is one of your concerns about the hydrology of CREW?

MS. BROOKS: We have concerns about the hydrology of CREW. We've been told by Alico that our water tables will actually come up. That is something that I would continue to have communication with Alico, but it is a concern of ours as well.

COMMISSIONER MIDNEY: Well, if your water tables will come up, why would you be concerned?

MS. BROOKS: Well, I mean, they're saying that. Oftentimes with mining it would be the opposite. Their modeling at this point is showing that our water would increase.

COMMISSIONER MIDNEY: But you're not sure if that's true?

MS. BROOKS: We need to have -- we need to discuss that more with Alico.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you.

MS. BROOKS: Thank you.

CHAIRMAN STRAIN: Okay. Thank you very much.

We're going to take a 15-minute break. We'll resume at 10:50.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. If everybody would please take their seats, we'd like to resume the meeting.

MR. BELLOWS: Next speaker, Roger Strelow.

MR. STRELOW: My name is Roger Strelow. I teach environmental policy, law, and sustainability at Florida Gulf Coast University. I was formerly an assistant administrator of the U.S. Environmental Protection Agency appointed by the president to manage the nation's air quality, solid waste, and noise-control programs.

I'm a resident of Estero in Lee County and a member of both the Brooks Concerned Citizens and the Estero Council of Community Leaders.

In one of my several private-sector positions after government work, I was executive vice president of the environmental-services subsidiary of the global engineering and construction company Bechtel Corporation. There, among other things, we performed environmental services for a number of major mining companies, such as Kennecott and FMC; thus, I am not an anti-mining or anti-industry person, but I have never seen a substantial mining operation squeezed into such a residential, agricultural, and environmentally-sensitive area as Collier County is considering for the Lost Grove Mine.

The mines I have seen and worked on have large buffer zones which the mine owners own and control. In the case of Lost Grove, excavation will come within a mere 150 feet of residential structures of which there are a total of more than 450.

The routes between the mining -- the transportation routes between the mining operations that I know of and the nearest major highways are usually largely on mine-owned land, not as here, on two-lane roads intended for public use, never designed for heavy industrial use and, in fact, already legally and factually unable to meet traffic demands under established criteria.

Now, if Collier County approves these mine operations, these already substandard roads, particularly Corkscrew and State Road 82, would be treated to an additional two large trucks per minute during the 12 hours per day of operations because of the planned 1,400 trips per day in and out of Lost Grove.

The noise from blasting, as well as from enormous truck traffic and other machinery, will rudely jar these local residents who live so near.

I learned from my time at EPA and in subsequent industry experience that noise is a far greater nuisance and health threat than you might suppose. It is particularly offensive to average citizens living and working in the quiet neighborhoods that they are accustomed to.

I and others are here today from Lee County because a large part of the adverse Lost Grove Mine impacts will occur in our county. As you know, your own Growth Management Plan policies very reasonably require you to give great weight to such impacts.

As others speaking up for Lee County explain in more detail in their comments, in the rural agricultural district where this mine is proposed to be inserted, very much like the proverbial skunk at a garden party, and activities such as this mine can be approved only as a conditional use, that is if it's compatible to agricultural uses and, quote, would not endanger, damage, or damage (sic) agricultural, environmental, potable water or wildlife resources. I'm quoting here briefly from some of our own codes.

In fact, such use must be found to promote, not just protect or not harm, but promote the public health, safety, welfare, order, comfort, convenience, et cetera. That's, again, from one of your own codes. I'll cite that -- it's cited in my written testimony.

An applicant such as Alico has the burden of enabling the county to make a credible finding that the proposed conditional use, that is the mine, quote, will not adversely affect the public interest, and that, among other things, specifically, ingress and egress with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, are satisfactorily provided for.

The applicant must also demonstrate that the conditional use would not have unacceptable effects on neighboring properties, including noise.

Even more simply, your county's Growth Management Plan, in Policy 4, says that new developments shall be

compatible with and complementary to the surrounding land uses. This simply is not the case.

Again, if there were more property here -- and the land, as I've seen with many other mining operations where you had to travel from the mine to and from a major route such as I-75, if -- that were owned or controlled by the mining company, it might be a far different proposition because you wouldn't be squeezing sort of inherently incompatible uses so closely together.

As for the road problem, which I think is really one of the core -- very core issues, Policy 5 of your plan says you should not approve any application that would, quote, access a deficient roadway segment or impact an adjacent roadway segment that is currently operating or is projected to operate below adopted level-of-services standards, end quote.

Now, that is exactly what -- the forbidden situation that your approval would make much worse than it already is. In other words, these roads have already been found deficient for their current uses, much less with two heavy trucks per minute added to them.

At your previous hearing, a representative of Alico testified about some very large amount of improvements to be made in these roads; it was in the tens of millions of dollars. I'm thinking it was like 90 million, but maybe it wasn't quite that high.

But it's my understanding that any such expenditures are by no means committed. That may be in a planning document somewhere but -- as with congressional authorizations, which may never materialize into actual appropriations or, if so, possibly at far lower levels.

Also, I understand that any such sums, even in planning terms, are not envisioned to be raised and used until at least several decades into the future.

Now, this Policy 5 of yours that I quoted doesn't appear to allow for such overburdening of already deficient roads just because decades into the future money may be spent to make the roads adequate.

All the factors I've discussed must include consideration of impacts in adjacent jurisdictions, as you obviously have been dealing with here with the Lee County people. That means that Lee County's very substantial stake in this matter and the significant adverse effects it would suffer must be fully taken into account, just as you would expect and receive from Lee County if the shoe were on the other foot.

In conclusion, I would simply ask you to consider honestly and carefully whether, if each of you lived in the area in one of those nearly 500 homes, or if you wanted to spend substantial time enjoying the marvelous CREW area, which is an environmental and tourist jewel of this whole region and at least one of you -- several have spoken up to having had such enjoyment -- would you want your elected representatives to approve shoehorning a loud, dirty mining operation into this location?

Again, I stress, this not any sentiment against mining in general. But as we do in all kinds of context, we put appropriate things in appropriate places. And as Don Eslick has commented and others, it's not that we're -- you know, that we don't have other lands on which the mining products that are needed can't be and aren't already being produced.

There are plenty of undeveloped areas in this region in this state where a mine could operate as it should, as they do in other states in some reasonable isolation from residential, agricultural, and ecologically-special activities.

Thank you, and glad to take any questions.

CHAIRMAN STRAIN: There may be questions. Anybody?

COMMISSIONER EBERT: Yes, I have a question.

CHAIRMAN STRAIN: Go ahead, Ms. Ebert.

COMMISSIONER EBERT: In listening to you speak and in looking at the mines in Lee County that are proposed that are right next to this, I'm getting mixed signals here. Lee County said, we have enough to provide everybody, seven-county area, for -- till 2030, and yet you have mines proposed right next to it. I don't know what Lee County's going to do with those. Are you going to be up there speaking against these mines also?

MR. STRELOW: Any mines that pose the same kinds of issues of, you know, just being force fit into an incompatible area, I would expect to be.

COMMISSIONER EBERT: Well, these other mines right behind it, from the picture right up there, those are huge mines.

MR. STRELOW: That's right. Now, they're still in the process, several of them, as I understand it, quite early in the process.

This is the one where the hearing has come up where I and others have formed a pretty common view that it just doesn't make sense in this location. And, by the way, I mean, in my view, this should not be seen, and certainly isn't seen by me, as, you know, a Lee County versus Collier --

COMMISSIONER EBERT: This is --

MR. STRELOW: -- you know, we've got these mines, let us -- I mean, I would not support that kind of a view at all, and I don't think anybody's suggesting that.

COMMISSIONER EBERT: Well, that's kind of what's coming out as the way they're saying it.

MR. STRELOW: Okay. I'm glad you raised it then, because I know that's not what Don Eslick, for example, meant. He and I work closely together through the Estero Council of Community Leaders.

I mean, it happens that there are some mines in operation in an area that was determined generally to be reasonably compatible and not -- not kind of force fitting with, you know, quiet residential areas in the immediate vicinity.

That doesn't mean that if any mine in Lee County that's being proposed were to fail the kind of test that -- I'm roughly trying to articulate here, applying Collier County's policies. I was quoting all from Collier County -- I would expect to take the same view of any proposed new mine in Lee County that failed to pass those same very reasonable and appropriate tests, which I think Collier County has on its books.

COMMISSIONER EBERT: Okay. Thank you.

CHAIRMAN STRAIN: Okay. Sir, you said during your presentation that you're used to larger buffers on mines --

MR. STRELOW: Yes.

CHAIRMAN STRAIN: -- from your work experience. What size buffers are you talking about?

MR. STRELOW: Well, you know, thinking of mines where the roads that end up at a big highway like I-75 are all on property owned by the mine -- even though much of that land where those roads go could not itself be mined, but that's the way a large mining enterprise such as I'm accustomed to working with, you know, often -- when they purchase property, when they see a mine where the ore actually can be economically removed, they will acquire enough land around it so that there's just no issue.

All of the traffic until you get to a place like I-75 where even these, you know, two trucks per minute can kind of pretty quickly disappear into the overall traffic, that's what is a more common approach rather than saying, you know, we've got an area where there's some material to be mined, but we're going to have to go through basically residential or small roads to get our product out to a major thoroughfare.

CHAIRMAN STRAIN: Okay. But back to my question. You said buffers.

MR. STRELOW: Yeah.

CHAIRMAN STRAIN: You used, as example, this one has 150-foot buffers between it and the residential. I'm not sure that's right based on some of the staff reports. But even if it was, what buffers are you used to between a mine and residential?

MR. STRELOW: Well, sometimes miles, oftentimes miles, not just feet. I mean, that's why -- whether it's 100 feet or 500 feet or whatever, that's a whole different proposition from having a -- you know, if you -- imagine if you had a -- you know, a small area in the middle of this room that was the mine, typically they own a lot of land around it that during the time of the mine operation is -- nobody lives on it, and so it does provide a buffer zone.

Now, in some cases after a mine is closed, obviously, they may sell off that land, because people then can buy it knowing that there aren't going to be further mining operations there.

CHAIRMAN STRAIN: It just seems like Lee County's positioning of their mines are further west than the mine in question. And the further west you go, the more populated you get.

MR. STRELOW: Right.

CHAIRMAN STRAIN: Whereas, the further east, where the agricultural land is, generally is where we see most mines going in, which is directly in contrast to the way Lee County's presenting their ability to supply fill for the entire area if all their mines are further west than ours, at least the ones that's suggested.

MR. STRELOW: Again, I'm not here to justify or support any particular mine in Lee County. And, as I said, personally -- and I'm here not representing any other -- I'm an experienced environmental professional, and I'm really just trying to provide what I think are sound principles for decision making in this area, such as I had to follow when I was in the government.

And, as I said, if any of the Lee County mines that are still pending for proposal were to fail some of the same tests, you know, personally, I would see no reason to take any different position.

Now, you also have some mines that are already in existence that are a different sort of issue.

CHAIRMAN STRAIN: See, part of the understanding I'm trying to come to is, okay, say we take the criteria that this is a bad location for a mine, and the criteria is the various things that people have said, that Lee County said. Then the opposite effect is, where could we put a mine?

Your criteria would eliminate all the mines in Lee County. There's no miles of buffers between residential in any of those mines in the aerial that Lee County provided us. Well, maybe one. Maybe one of the temporary ones, the FEDMEPG, whatever that is. But most of them have the same criteria. They're near to residential. They're going to be feeding onto streets that are not primarily urban streets or streets that have an I-75 access.

So I'm trying to figure the alternative, because that's important, too. If we're going to deny anything, we've got to have a basis for it that's got to be unilateral.

MR. STRELOW: All right. There's one issue with pending proposals. And I've said several times, I would treat none of those proposals any differently in terms of criteria. They simply haven't come up on my radar screen for -- as immediate attention as this one obviously needs, because you're pretty far along in the process.

As for mines that have already been opened and used, you know, one can go back with hindsight and say, gee, if that were up for approval for the first time today, many of us might oppose it. If it's already there, it's a little bit of a different issue. If it's in operation, has been for years, maybe is not too far from being shut down or substantially reduced in operation, that's a different matter.

CHAIRMAN STRAIN: No. I was referring to the ones that are pending --

MR. STRELOW: Okay.

CHAIRMAN STRAIN: -- only because I don't know --

MR. STRELOW: Well --

CHAIRMAN STRAIN: I mean --

MR. STRELOW: -- as I said, I would apply no different criteria there. I don't, offhand, know exactly the condition of those roads. I'm not sure if they're as narrow as and inadequate under the established criteria as the two roads that we're principally concerned about here.

CHAIRMAN STRAIN: Okay. Thank you, sir.

Go ahead, Melissa.

COMMISSIONER AHERN: Just to follow up, you mentioned the -- where we are in the process here. I believe earlier it was stated that Troyer Brothers is on the BCC agenda for November 21st, which is --

MR. STRELOW: Yes, it's coming right up.

COMMISSIONER AHERN: -- just next week. And then following that, Florida Rock is also going to the BCC. Have you not evaluated those?

MR. STRELOW: I personally haven't -- I've got a lot of other things on my agenda, but I've been focusing mainly on this and will be turning attention to that very shortly.

COMMISSIONER AHERN: It just seemed like those were further along than this one is, and they're addressing the same road.

MR. STRELOW: Yeah. I'm -- by the way, I'm fairly new in the area. I've gotten engaged in activities that have come up where people have approached me about, you know, lending some assistance, and this has been the particular one that seemed to be farthest advanced, as I understood it.

COMMISSIONER AHERN: Okay.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Thank you, sir.

MR. STRELOW: Okay.

CHAIRMAN STRAIN: Next speaker, Ray?

MR. BELLOWS: Hugh Starnes.

MR. STARNES: Good morning. I'm Hugh Starnes. I live in Lee County, but I own property immediately adjoining/adjacent on Corkscrew Road to the proposed mine. I have 65 acres with two houses on it. The two houses sit on Corkscrew Road at the corner where Wild Cat Road goes off to the west, and the mine is directly across the

street. My property runs down to the south end of Whidden Loop Road.

I also lease -- I also own five acres, which has cattle pens on it, at the curve a mile south, and then I lease land and formerly was a half-interest owner in -- that comprises 360 acres now owned by Collier County. It's called the Caracara Preserve; myself, and my other co-owner sold to them.

And just, parenthetically I would tell you, I was the one that made the original suggestion that we approach Collier County, because I did not want to have my co-owner have somebody present a proposal for a mine and -- which would have possibly come along. We'd had inquiries before. So I precipitated getting our land sold to the county so it could be preserved.

And I strongly oppose the mine here. And I'm wondering, do you have the aerial that gives a wider view that had the little blue squares on it? Because it's important to put in context from some of the questions that have come up. That's not the one. It's an aerial -- it's the one Matt had. Do you have that one, Matt?

CHAIRMAN STRAIN: By the way, while he's bringing it up here. I couldn't figure out where I could place your name, but I remember now; that's the Starnes property that Conservation Collier purchased.

MR. STARNES: Well, they used to call it the Starnes property.

CHAIRMAN STRAIN: Yeah, okay. So that's yours, that was yours.

MR. STARNES: Was mine. I had a half interest, and my father's other partner's children were the other half. I've -- well, my background in the Corkscrew area is, is I first went down there in 1947 with my father in a Model A car, truck, from -- Model A or Model T, I can't -- the one that was like a station wagon.

Left at seven o'clock in the morning, went along Corkscrew Road as a grade. Four miles from Corkscrew we got stuck in a wash-out. We walked the four miles. Sam Whidden came back with his flatbed truck, pulled us out, and so it was time to turn around and back to Fort Myers. So the whole trip was trying to get there.

My father, before me and myself, have had cattle in the area. My father since the 1930s, and my father first started going down to Corkscrew from Fort Myers -- he was a lawyer in Fort Myers -- in the 1920s.

But what I wanted to demonstrate to you is a little larger topographical area here. What I've just pointed to is colloquially known as No. 4 Marsh. Now they're referring to it as Imperial Marsh, but all the old-timers referred to that as No. 4 Marsh. That runs from about a mile south of 82 at the long curve on 82, just north of Bell Road. And it runs down towards Corkscrew Road, and it's a predominant feature.

The other place that I've indicated there is No. 4 Pond, which is a huge cypress pond that lies directly west of the mine in the Corkscrew area. To the south of Corkscrew, of course, you're familiar with is the CREW property, the Corkscrew Marsh, and further to the south, Lake Trafford.

And that's why we have -- in that whole entire area we have the CREW property which, as Brenda told you, was 60,000 acres. It runs all the way around the marsh here. We have the airport-mitigation park, which is -- any of you familiar with the Corkscrew Store, it's opposite north of the Corkscrew Store, and it's, I think, 9 to 12 square miles.

Ironically, when I was a boy, my father leased that land. And so as I grew up, I worked that land taking care of the cattle, doing the fences, and very familiar with that. That's why I know No. 4 Marsh and No. 4 Pond, and I've been all over that area.

And so we have the CREW land, we have the multi-section airport-mitigation park, we have Lee County 2020 conservation lands in that area, and then we have the 360-acre, that I used to own, Caracara Preserve at the east end of Corkscrew Road.

So you have this gigantic area that has major hydrological topographical features that have probably a -- wasn't so complex before, but complex drainage and natural features with the wildlife that moves back and forth.

And you've seen that the panther tracking shows the panthers come from the marsh up across the Corkscrew area over to the airport-mitigation park and run up towards No. 4 Marsh, which is a very large marsh.

And so you have all these publicly acquired, paid money for them, lands that are strewn throughout here, which emphasizes the natural appeal both from water retention, as well as wildlife, and conservation of this land.

And with all due respect -- well, let me come back to that point.

The -- so with that in mind, Lee County has encountered, since the mining trend has started in applying for these, has started receiving all these mining requests.

Since they originally began, they came up with the DR/GR study group, and we've had one member that was on that, and Kevin Hill will also talk to you about that -- that studied overall area to say we've got to make some sense

out of all this mining.

And I'm asking, ma'am -- or answering particularly your inquiry, I think. We've got to make some sense out of all of this. We just can't have mines strewn all through this ecologically sensitive important area.

So what they came up with was after a great deal of study with a huge number of experts and a number of mining contested permits -- which so far the recent ones have all been turned down that have come before the commission. The proposal is and the policy of the county is that we would only -- they would only allow the mines in the corridor that directly opens into Alico Road which, as Mr. Noble told you, is built to take care of the type of traffic involved, so that's one feature.

The other feature is to contain these in an area which minimizes contact with residential areas. Now, when you see these overlays with these big orange areas of proposed mines, those are people who want a mine. I think that it's crystal clear that the fact that Lee County is on is that they're going to be denied, because they've established a policy that they're not going to do that.

They're not going to break all these up into separate areas through the sensitive area for mines. So it's going to be far away from this property, and the Alico character in the Alico corridor, and that's clearly the intent through all their deliberations, and the latest hearing examiner agreed with all that and made a recommendation to deny the latest one that applied.

So it's far away. And I can tell you as a lifetime resident of Lee County and Southwest Florida, that the areas where those mines are do not have the residential characteristics, and the public land characteristics that we have here, just like this, they're different, they're more isolated.

And, in fact, the -- one of the most productive ones you actually go off of Alico and run a mile or two back into the road. And to my knowledge there's virtually no residential developments back there.

Then the other mines are along the further extension of Alico as it crosses to hook up with Corkscrew, and there are virtually no residences of significance in that area. Plus, those mines are older mines which, I think, for the most part were started before the latest residents were put in there.

Corkscrew, on the other hand, was settled in, I think, 1910, and there have been continuous numerous residences there for the -- for the agricultural -- mainly cattle and some farming -- industry since the beginning of the century. And I've been familiar with the Alico land. I've leased land for cattle grazing for them. And there was never any indication of any rock mine or anything like that. Alico was an agricultural company that had planted pine trees on the CREW area -- cut them all down when they sold it to Southwest Florida Water Management District -- and had the citrus groves.

So I'll come back to what, with all due respect, this should be characterized. This is a Lee County refugee for mining purposes seeking asylum in Collier County, because the handwriting on the wall is clear that they have a very small, diminishing chance of doing the type of mining they want in what's left in Lee County for any land that they have.

And I would suggest that Alico is not going to do the mining. Cemex or one of these big mining companies is going to contract with them or buy their land or do something. They're the ones that are going to do it. Alico would certainly profit. And, hey, that's fine, if they follow the code.

But your code -- and I want to -- I ask you for the right to make a legal argument, since I am a lawyer -- legal argument at the end. And I won't make it now, but I will just say, in my opinion, legally, the issue here tends to get lost through all the details.

This is a compatibility issue, and your code says that you must make a finding on specific -- and I don't mean to insult you. I know you know this, but it has to be emphasized -- that you have to make a finding with certain criteria, the most important, I believe for this case, is that it's compatible and complementary to the neighboring properties.

And so, I ask you, the name of this body is the Planning Commission. Could anyone ever conceive or is anybody going to show any planning treatise or any body of knowledge that would say it's appropriate planning to put a rock mine next to a nature preserve?

And I really -- you struck a cord with me of the whispering or sighing of the pines. And, you know, those of us who have ever been out in the woods and sat down to eat your sardines and crackers for dinner or just sit there on a break and listen to the wind sighing through the trees, that's what the CREW property is all about; 8,000 residents, I believe -- or 8,000 hikers have come through there, participants, through this year, 5,000 of which were students,

almost all from Collier County district schools and FGCU students. That's what that property is there for.

And I have a couple of pictures, and then I will try to wind this up quickly.

CHAIRMAN STRAIN: Okay. Because we're running a little over in time, so I'd appreciate it. Thank you.

MR. STARNES: Human interest. And then put this on when I give you the high sign.

CHAIRMAN STRAIN: Well, be careful. We'll see what sign that is.

MR. STARNES: That was -- it will be a decent gesture. That's a panther that was taken through one of the motion-activated pictures on the Caracara Preserve, and I just -- it's just interesting to look at that, and that's characteristic of the CREW property also.

Would you put the other one on. On my way to the ranch one day, I just stopped by the side of the road. This is a mine at Alico -- on Alico Road. You're sitting there on the trail listening to the sighing of the pines while in the background "Rumble, Rumble," "Beep, beep," and you look up and there's a 140-foot boom that will greatly out distance any 8-foot berm and a 40- or 50-foot-high pile of dirt. That's the way these mines are operated.

And not to say that theirs will be exactly like that, but those are the normal structures you always see for mining, and they can put a berm up, but you cannot hide the -- those features or the noise. So -- the only other thing I want to add is, is that's as to the CREW property.

And so I just want to wind up saying, I have the two houses that I rent out. I am in the Corkscrew area every week taking care of my cows down there, which I have in two different places, and I hike on the CREW property.

And those residences there -- this is the other compatibility issue. You cannot enjoy what all of those people built their homes for, and most of those homes were originally built back in the 40s and 50s, so they far preceded this. You cannot take away, you should not take away, and I don't see how you can make a finding that Alico has the right to take away their residential use.

That mine is anathema to a rural residential use, and it should not exist. Thank you.

CHAIRMAN STRAIN: Before you leave, sir, you had mentioned during your discussion about a legal brief that you wanted to reserve till the end.

MR. STARNES: Yes.

CHAIRMAN STRAIN: So you still want to do that, I'm assuming?

MR. STARNES: I do. I'll be very brief.

CHAIRMAN STRAIN: I want to know how much time you want allocated. I mean, we'll work with you, just --

MR. STARNES: Five minutes.

CHAIRMAN STRAIN: Okay. And now, the last speaking on this issue today before we close the public hearing will be the applicant. They get a rebuttal at the end, so you will have to be before that.

MR. STARNES: I would like it to be after that, because they're going to present additional testimony, and that's what I feel I have a right to address, because -- that's the other thing I have to say that really concerns me about the process.

The -- and that's what I want to address, actually. And so I'll just say, the reason I want to address it, the applicant has not identified or given you the basis to make a specific finding, although you probably can use your own common sense to do it, but they have not identified the issue of compatibility.

They have assumed it's incompatible and said, here's some things we will do, but they've not said how it's incompatible, and it's incumbent upon them to do that.

CHAIRMAN STRAIN: Okay. I wanted to kind of explain to you the process that we normally go by. We will be asking questions, this panel, of staff and the applicant after you-all are done. Normally we do that before the public is heard. We thought it would be helpful to hear the public's concerns first so in our close -- in our ending questions with the applicant we can get more of the questions that you rise (sic) in our questions to them.

Your remarks can be done at the time the applicant is done addressing us in response to our questions. But at the closing of this meeting, they will have a rebut. That rebuttal is not for new information. That's just to discuss the summary of basically what occurred from their perspective today. So that's where I'm getting at.

MR. STARNES: Then I stand on what I've just said, because it was represented by them in their opening statement that they might call Mr. Depew as a rebuttal -- I understood them to say -- witness.

If they've finished with their evidence, then I stand on what I just said. I might want to make one very, even briefer legal reiteration of that, but they have not met their burden of proof to prove compatibility.

CHAIRMAN STRAIN: Okay. And then we will get you in at an appropriate time before this meeting's over.

MR. STARNES: Okay, thank you.

CHAIRMAN STRAIN: Thank you, sir.

MR. STARNES: And I appreciate you letting me go a little over. Thank you.

CHAIRMAN STRAIN: Not a problem.

Next speaker, Ray?

MR. BELLOWS: Joe Staiger.

MR. STAIGER: Hello. My name is Joe Staiger. I live at 3225 Whidden Loop Road, Immokalee, right off Whidden Loop Road. And I live probably maybe about 1,500 feet from where the mine would go in, just south.

So I think that -- good possibility the wells will be affected. It is a shallow well.

Also, I was thinking about something, and it -- and maybe somebody can answer it for me here. I know that the sheet flow flows across the ground and then it goes through the sand, and it basically is purified to -- and reaches the aquifer. When they dig their lakes, they're just gouging the dirt out, and they're exposing that aquifer all the way around. What's to keep pollutants out from reaching the water? And then, even if my well doesn't go dry, what's to keep it from not getting polluted? Is there anybody that can answer that?

CHAIRMAN STRAIN: Well, that discussion came up earlier today, and --

MR. STAIGER: About pollutants?

CHAIRMAN STRAIN: Yes. It was responded to by the criteria in the back of the Florida Department -- the ERP permit, basically. It has a series of paragraphs that will address that. I even made a note of some of the pages. So that permit may address your issue. I don't know for sure, but that's what one of responses was today.

MR. STAIGER: Okay. I'll look into that. Thank you.

Right now, as Judge Starnes has said, that Whidden Loop Road -- the settlement has been there a long time, the Corkscrew settlement. Actually, my wife is a direct descendent from the Whidden family. So she's very pleased to -- for us to get that property 15 years ago. And she purchased it from her great aunt, Dolly Whidden.

I think that -- the ambience of this area, right now we have deer, we have panther, we have actually a pair of gray foxes that live right around us -- coming through the property quite often. My wife did see a panther come through. I've seen a black bear come several -- several times. Actually, right over Judge Starnes' property I sought to catch a little pig.

And -- I wish I was a little more prepared. But I ask that you say no to this mind (sic). I think that -- I know with just -- it's a 35-year, they estimate the mine will be open. To me, that's like a lifetime.

If they -- their blasting is, they say, about 17 feet apart. That will equal to about 106,000 blast charges that will be ignited over that time. If it's 20 feet, we're talking 81 -- 81,000 blast charges that we will have to put up with five days a week.

I guess that's all I have. And I hope you say no. Thank you for your time.

CHAIRMAN STRAIN: Thank you, sir.

Paul?

COMMISSIONER MIDNEY: What way did -- what roads did you come to get to this meeting today from your house?

MR. STAIGER: I came, well, down Corkscrew Road into Estero.

COMMISSIONER MIDNEY: Okay, yeah. The reason I say that, it was estimated that only about 10 percent of the traffic would go down there that way, but I did a MapQuest, and it was both for coming to this meeting today, and they say go down Corkscrew Road, and also I did another MapQuest to the north to Tampa, and they also said Corkscrew Road, even though 82 would seem like it would be a bigger road to be able to go north. But in my experience, MapQuest kind of gives the logical explanation of what the average person would do.

It's only 14.7 miles from Whidden Loop Road to I-75. And I think that what he just said now, that -- to get to this meeting, you wouldn't go through Immokalee and go down that way, right?

MR. STAIGER: No.

COMMISSIONER MIDNEY: It would be much longer.

MR. STAIGER: Right.

COMMISSIONER MIDNEY: And I think most of the trucks, if they're going to access anything by 75, they

would all go down 846, which is not the -- really the best way to come.

I think even if you required them to only have an exit on 82, which I don't think you could do, they would still just make the turn and come down Corkscrew Road because it's, by far, the most convenient way to get to the coast. Thank you.

MR. STAIGER: You're welcome.

CHAIRMAN STRAIN: Okay. Thank you, Paul.

MR. STAIGER: Plus, just to note that their trucks do run 24 hours on that road, dump trucks, so -- actually seven days a week, too, all hours of the morning.

CHAIRMAN STRAIN: Well, this mine wouldn't operate 24 hours if it were to be approved, but -- so that must be Lee County mines that are allowing that. Certainly couldn't happen in Collier County with this mine.

MR. STAIGER: Or Hendry County. Thank you.

CHAIRMAN STRAIN: Thank you.

Ray, next public speaker.

MR. BELLOWS: Nicole Johnson.

MS. JOHNSON: Good morning. For the record, Nicole Johnson here on behalf of the Conservancy of Southwest Florida.

And as you're aware from our letter and my conversations with a number of you, the Conservancy has many serious concerns about the Lost Grove Mine due to potential negative impacts to natural resources, the road network, and rural residential neighborhoods.

We believe the mine is incompatible with the surrounding land uses, and it's inconsistent with the Growth Management Plan and Land Development Code. And, therefore, we're asking that you recommend denial of this permit.

And we don't take this position lightly. We really looked at this project to see if there was any way that this could be considered consistent, if any conditions could be put on it, and we simply could not find any conditions that would offset or mitigate our concerns.

And this really is the sort of assessment that is part of the conditional-use process. Conditional uses are "mays"; they're not "shalls," and the process allows you to determine if a use is appropriate and compatible. If not, can there be conditions attached that would make it compatible? And if not, it's your responsibility to recommend denial of that conditional-use permit.

A conditional use can be denied not arbitrarily, but based on competent and substantial evidence. And the litmus test of a conditional use really comes down to compatibility with the neighborhood, with the neighbors to the west in Lee County, and compatibility with the protection of natural resources.

As you're aware, the conditional-use process is governed by the LDC, Section 10.08.00(D). I won't go through all of those standards, but just point out consistency with GMP and LDC is one, and then also looking at the impacts from the neighborhood point of view, noise, glare, odor, economic impacts, and then also compatibility with adjacent properties and other properties in the district.

I'm not going to speak to the impacts to the neighbors. You have a lot of neighbors here that can do that much better than I can. But the bottom line is that having a mine in such close proximity to residential homes is impacting and, as such, the Conservancy believes that the mine is inconsistent with Policy 5.4 of the Future Land Use Element, which requires that new development shall be compatible with and complementary to the surrounding land uses.

The Conservancy is also concerned about the impacts of the mine on transportation, and particularly how the traffic is going to impact Lee County.

Mining is, of course, an extremely intensive and impactful activity. And these impacts go far beyond the actual footprint of the project. Lee County has, as was outlined by staff and other speakers, spent the last four-plus years and well over a million dollars to create a plan for Southeast Lee County, their Density Reduction/Groundwater Resource area, or DR/GR, that addresses the need to balance uses, including mining, rural residential, ag, and conservation.

And they did this. They have an adopted plan. It hasn't been implemented, but it focuses mining on Alico Road. And I'll put a map up that just gives an indication of what that looks like.

MR. BELLOWS: Want me to zoom in?

MS. JOHNSON: Yes, please.

And I don't believe this was the final adopted iteration, but I did find this in my files, and I thought that it could be helpful, because you have Corkscrew Road here, you have 82 up here, and you have Alico Road in this area. The light blue are the existing mining operations, and it's very hard to see, but there's crosshatched areas in this area that show where Lee County is directing their future aggregate supply mining area.

They want to keep it in this Alico Road area. They also added in this area the Florida Rock No. 2 mine, so that's another addition that they put in. But it really shows that mining is concentrated in the Alico Road area so that the trucks can get onto Alico Road and get out to the interstate or wherever they're going with minimal impacts to conservation lands and the rural residential neighborhoods that are in that area.

And as you can see, the DR/GR plan specifically directs mining traffic away from Corkscrew Road and State Road 82. And the fact that an estimated 70 percent of Lost Grove Mine's traffic is going to be directed onto these very roads raises serious concerns that we don't believe have been addressed appropriately by the applicant's traffic-impact study. Lee County's concerns really need to be part of this discussion.

In looking briefly at Corkscrew Road, an estimated 10 percent, though it certainly could be much more, of the mine's traffic will use this road going west. And 10 percent may not seem like a lot, but when you break it down, it's an estimated 137 haul trucks per day negotiating two almost 90-degree turns as they enter into Lee County. And I have a picture of one of those turns just for perspective.

As you can see, that's a tight turn, not much of a shoulder, and the shoulder is currently crumbling. This is something in the neighborhood of 11 trucks per hour, over 40 trucks per year (sic). If the mine has a 30-year lifetime, it would be 1.2 million trucks going down this road during the lifetime of the mine.

So this is something that I think you really need to look at cumulatively to get an overall perspective of it. And because Lee County is trying to direct mining traffic and haul traffic away from this road, we see this as inconsistent with Objective 6 and Policy 6.2 of our Collier County Transportation Element.

Objective 6 states, the county shall coordinate the transportation element with the plans and programs of the state, regional, and other local jurisdictions, and Policy 6.2 states, the transportation element shall consider any and all applicable roadway plans of Naples, Marco Island, et cetera, and Lee County.

In addition to directing mining traffic away from Corkscrew Road to protect rural residents, Lee County also intended to protect the endangered Florida panther and other wildlife. There are certainly impacts to the panther on site.

And at the last hearing, Chairman Strain, you had asked the question about why on the Lost Grove site there was primary panther habitat but that wasn't designated as an FSA or an HSA. And I believe that is because when the RLSA program was put in place, primary panther habitat had not been established, so I believe that may help to answer that question.

But regardless of whether it's considered open FSA, HSA, primary, secondary, panthers use that site, and you've seen the graphic that Lee County put up, and I'll just put it up also.

Panthers use the Lost Grove site and the areas adjacent to the Lost Grove site. And there's also tremendous potential impact to the panther from the haul trucks that will be going on Corkscrew Road, another reason why Lee County directed mining traffic away from this road through their DR/GR.

Panthers actively use the CREW lands to the south, and they do cross the road, and they regularly cross at certain areas, a couple areas in Lee County that are a little bit off of this map.

Approving a mine that we know will be directing 11 additional trucks an hour onto this road, we believe, is inconsistent and certainly poses a direct risk for panther truck collisions.

The applicant has stated that the truck traffic will be during daylight hours, but this isn't the case for many times of the year. During the winter, it's dark at 6 a.m. and 6 p.m. And I believe that Margaret indicated that they expect trucks to be coming on site earlier than 6 a.m. so that they can queue up and be first in line to get a load of aggregate.

They'd be queuing at 5:30 to 5:45 in the morning. So this means that trucks could be on Corkscrew Road as early as 5 a.m. This is dark. Panthers are nocturnal, so we believe that there's certainly an impact there.

And dawn is also another time of panther activity. So we're very concerned about having trucks out in the road at dawn and dusk and during those dark hours. This is time of panther movement.

And as these impacts would be especially relevant to the endangered panther in Lee County, we believe this

creates an inconsistency with the Conservation and Coastal Management Element, Policy 6.4.2, which states, Collier County shall continue to coordinate with adjacent counties when reviewing proposed land development projects that would have an impact on ecological communities in one or more of the adjacent counties.

Lee County's already stated their concern about this matter, so we don't believe that issue has been resolved as of yet. In looking at State Road 82, this is also a concern, as it's anticipated that 60 percent of the truck traffic or 820 haul trucks per day will be using State Road 82 and entering into Lee County.

Someone -- a previous speaker, Roger Strelow, mentioned that he believed that this was inconsistent with Policy 5.1 of the transportation element, and I agree. I'm not going to read that policy, as he has done that. But that policy does say you need to look at the level-of-service standard of roads where you're going to be directing additional traffic.

State Road 82 was discussed at the last meeting by both the applicant and Lee County staff. And the applicant stated that improvements to State Road 82 were in the Lee County 2035 long-range transportation plans, financially-feasible plan, which is true, but I also need to point out that the money's not anticipated to be available until between 2026 and 2030. So for a large portion of this mine's lifetime, these improvements would not be made. They would not be funded.

Moving from transportation impacts, just want to speak briefly about the impacts to CREW, because this is the largest undisturbed watershed in Southwest Florida. We believe that the noise from the mine, the dust, the lighting, potentially, at night, certainly the truck traffic and road kills, this is going to impact the wildlife that utilize CREW, and it certainly will impact the visitor experience, so we're very, very concerned about that.

And, finally, I want to mention the intergovernmental coordination, because as you've seen, our neighbors, Lee County, have serious concerns about this project, and their issues and considerations must be taken into account.

We've talked about the Intergovernmental Coordination Element Objective 2 and Policy 2.2 that direct Collier County to work with Lee County on these issues. We don't believe those issues have been resolved appropriately.

So, in conclusion, Collier County has the authority and the responsibility to maintain a high standard for protection of both citizens and critical natural resources through the GMP and the LDC, specifically, through the conditional-use review process.

If you believe that the evidence presented today in opposition to the mine is factual and substantial, then the permit should be denied. The Conservancy believes the Lost Grove Mine is inconsistent with numerous GMP and LDC policies, which I have mentioned today and I also mentioned in the letter that I had submitted. I will hand out a copy of those policies for your reference.

And I apologize, I had printed this out for your 11/3/11 meeting and didn't want to kill any more trees by reprinting, so this is the same information.

And one other thing to conclude. In comparing this to the Jones Mine and some of the conditions that were attached to the Jones Mine, a lot of those conditions dealt with blasting and what the setback should be and turn lanes and things like that. But I think one critical difference between this and the Jones Mine is that the Jones Mine is in the rural fringe mixed-use district. And when we created that district, the county looked at the fact that mining is necessary, and where can it be appropriately located?

And it was determined that mining would be located in the receiving lands in the rural-fringe district. The sending lands, it would be prohibited, but it would be allowed in the receiving. The Jones Mine is in the receiving lands.

So I think we took a look in the rural fringe at those sorts of compatibility issues, just as Lee County did with the DR/GR. I don't believe that mining as a use was really discussed a whole lot in the RLSA where the Lost Grove Mine is proposed.

The RLSA overlay really dealt with, let's transfer redevelopment rights from sensitive wetlands to create new towns. But the whole idea of mining compatibility has to be done on a case-by-case basis. I don't think it's really been truly looked at like the Jones Mine. So I just wanted to bring that up as something that I see as a difference between this and the Jones Mine.

So to conclude we ask that you recommend denial of the Lost Grove Mine. We believe it's inconsistent and incompatible.

CHAIRMAN STRAIN: Okay. Questions of Nicole anybody?

(No response.)

CHAIRMAN STRAIN: I've got two. Let's start with the most recent one you just mentioned. I know in the rural fringe -- because it was a new setup, a new twist for Collier County land planning, we set up specific areas where mining could go.

In the RLSA we did the same thing by limiting it to open space, and the SHAs -- HSAs and all the other SS -- I mean, the more sensitive areas, the SSAs, FSAs, they were all set aside as predominantly environmentally-concerned areas.

So this mine is in an open space in the RLSA, which we specifically said in the RLSA those areas could have mines. Now, I'm not saying this is the right location or bad at this point. I'm just suggesting that I was here and you were here, and I remember you and I both spoke quite at length on the RLSA process.

But, you know, we did address it. We said open space, and this is -- in fact, the entire mine on this example is open space in the RLSA. That doesn't even include a piece of that primary that you're concerned about.

MS. JOHNSON: Well, it would impact some of the primary, I believe, but --

CHAIRMAN STRAIN: Not in the RLSA. If you look at the RLSA overlay map --

MS. JOHNSON: Right, the RLSA doesn't address primary.

CHAIRMAN STRAIN: -- it cuts it out.

MS. JOHNSON: Right. It doesn't address primary.

CHAIRMAN STRAIN: Right. Because I went and looked at that.

MS. JOHNSON: But I think everyone with the RLSA process -- and this mine isn't participating in the RLSA. They're simply saying, we're going to go under the baseline ag standards. And certainly from the Conservancy's perspective, we didn't have a large discussion of mining as an RLSA land use because everyone was so intent on where new towns should be located.

So we certainly didn't see that same level of detailed analysis for mining, because a town has impacts within their footprint and without, but mining has many more impacts, in our opinion, outside the footprint. And so we didn't see that level of detailed discussion about mining as part of the RLSA process.

CHAIRMAN STRAIN: Okay. Some of the process in the RLSA talked about the impact of mining and other operations and excavations for water management on hydrology. And I remember an attempt at that time was to limit the hydrology in a certain distance from any body of water that was created as a result of the water RLSA overlay. I can't remember what that distance was, but I know we looked at those things.

So, I mean, I thought we had discussed it. Again, I'm not saying it's right or wrong. I'm just remembering the discussion.

But I also wanted to ask you, did you attend the EAC meeting on this --

MS. JOHNSON: Yes, I did.

CHAIRMAN STRAIN: -- action, okay. Your organization's primarily environmentally concerned. Mostly you focus on environmental concerns; is that fair?

MS. JOHNSON: Yes.

CHAIRMAN STRAIN: Okay. So the EAC is a pretty natural body for you to speak at. Why did they come back with an affirmative vote on this? I was surprised to see that if -- being the EAC and with your input if there was environmental issues. Can you shed any light on that?

MS. JOHNSON: Well, you know, I'll give my opinion on that. A couple of the comments from the EAC members led me to believe that they felt they had to recommend approval. I remember EAC Member Gina Downs saying, well, you know, our hands are tied, so we have to come up with conditions. So I don't know if they understood that they didn't have to recommend approval. I'm not sure. I really can't speak for their thought process on that.

CHAIRMAN STRAIN: Okay.

MS. JOHNSON: But I will say their recommendation of approval had in place conditions that the applicant isn't doing, so I think that should also be noted.

CHAIRMAN STRAIN: Well, we're going to go over those kinds of things today. I just wanted to understand what -- since you were present. And I assumed you attend most those kind of meetings --

MS. JOHNSON: Yes.

CHAIRMAN STRAIN: -- so you probably have a flavor for the -- that board.

MS. JOHNSON: I don't believe that the staff presentation talked about "here's what a conditional use is" and "here are the specific standards for your determination." I don't believe that was part of the staff presentation.

CHAIRMAN STRAIN: Well, I mean, it shouldn't need to be. It's part of our code, so -- but anyway. Okay, thank you, Nicole. Appreciate it.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. We can take one more public speaker before we break for lunch. So, Ray?

MR. BELLOWS: Neal Ott.

MR. OTT: Good afternoon. I'm sorry, good morning. It's still morning. I live in Corkscrew Settlement, have lived there for the last 12 years, and very glad to have brought my family out there. And we enjoy everything about the tranquility there.

Now, to get to the basics of why we're here, the panthers that were -- the last two that were killed out there were in the last five years. It was not in the Eisenhower administration, by the way.

And Corkscrew Settlement was there 50 years before Alico ever became a company, and I think that's an important aspect of a residential community being in existence for such a long time.

And the environmental issues are sufficient, I think, to deny this permit. All the grove is used as panther habitat both for roaming and feeding. They feed on the wild hog there regularly.

And the county staff, in my opinion, has failed the residents in Corkscrew Settlement drastically because not once have we ever been asked anything about this process. And this is not like a subdivision going in next to us. This is a major industrial operation that we're talking about, which is going to affect our lives, my life for the rest of my life.

And I think that's a -- something that county has fallen drastically on. They've failed -- failed on that.

And we're all taxpayers. I know Alico is taxpayers as well, but they're not residents there where they're getting ready to change this thing drastically.

So I object for all my grandchildren and my children and all the students that visit CREW regularly.

And what happened at the EAC meeting -- their recommendations I presume you folks have all seen and read, so I'm not going to go into those. But, you know, the one thing that they put in there was a 1,000-foot buffer, as well as the water management had that in their notes, which that's never been brought up.

You know, the hours of operation: 30 minutes after sunrise, 30 minutes before sundown. That's never been mentioned by Alico.

The lights from the -- from the mine on Alico, you can see that four miles at night. Four miles you can see those lights.

So -- the jake brakes, there's another big issue. Noise from the trucks. This is all in the dark when the panthers are roaming.

And the concerns that we have as well for the wells in our area, I think, are very significant. And you know and I know that in all of these operations if there was damage done to our wells, it would take a drastic lawsuit to gain anything for the residents who are directly affected.

And once this has been mined, this can never be fixed again. You can't repair what's been damaged.

And I wanted to touch base a little bit, because I have some farming history in Florida. The water tables -- and we're talking about a 9-foot drop from one end of the property to the other. If you dig a trench or put lakes in, the last lake is going to be the same elevation as the first lake because of the way the water moves in this soil. Nine foot is a drastic drop.

And so my last thing I wanted to say was the compatibility issue is, in fact, not even a possibility. And the blasting effects, I have personal experience on that. For over 30 years I've had nothing but humming in my ears from combat, and that does not go away, will never go away, and it's all from blasts. So -- absolutely cannot be fixed, and I believe it's the same possibility. This mine cannot be fixed once it's done. Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Okay. With that, we will break for lunch. We'll come back at one o'clock and resume the meeting where we left off with public speakers.

(A luncheon recess was had.)

CHAIRMAN STRAIN: Okay, everybody, welcome back from lunch. It definitely is interesting the bits of

information you pick up during lunch. Sometimes it's even embarrassing for some people, so I have to disclose what I picked up. It's Terri's birthday today. Happy birthday, Terri.

(Applause.)

CHAIRMAN STRAIN: She's a fresh 23. And we'd sing to you, but our voices are so that it would probably break the microphone and you couldn't record it, so -- but Happy Birthday, and thank you for the brownies that you made us, instead of you making us anything.

Okay. With that, we will move back to our public speakers. Ray, you want to call the next speaker?

MR. BELLOWS: Steve Conti.

MR. CONTI: Good afternoon. Can you hear me okay? Because I've got a little problem with speaking.

My name is Steve Conti. I'm from Lehigh Acres. I am retarded -- I mean retired individual. And I don't really represent any entity at all. I'm here strictly on a personal situation that a couple people have asked me to do.

I was in the explosive field for 30 years, worked for a company by the name Austin Powder Company, and I was a field engineer. In other words, I would go out to a blasting project, whether it be a deep mine, whether it be an open-pit mine, whether it be the side of a mountain, whether it be an underground coal mine or whatever, I would go to different places around the country on behalf of the -- of Austin Powder. And if they had a problem, Steve, would you go here, can you go there, and you go there.

So I think in that time I got somewhat of a focus on blasting. Although the blasting -- the dynamites and what's used today for blasting agents has changed, has changed considerably, considerably.

My biggest concern is that the blasting that's going to be done as it was proposed by Alico is that not only we want to meet the state regulations, which is regulated by the state department of arshal (sic) -- fire marshal's office, but also the homeowners that are there.

When I say -- I've probably blasted open pits probably three or four hundred in my career, or maybe more. And one of the things we're always concerned about in blasting is what damage can the blasts do? Fortunately, in the mining situation, there's not going to be any fly rock, we used to call it, because the rock is all going to go out towards the open pit when they remove the dirt and they remove the water.

So the fly rock, as we call it, will not be a problem. What may be a problem is the amount of explosives that are used in one shot, and also the type of explosive, and also the density of the rock that's going to be exploded. In other words, in this instance here, it's limerock, which is somewhat the same around the country when it comes to limerock.

What -- my concern is this: I would suggest to the panel that we -- when I say "we," meaning you folks -- you get something from the mining company to show a few things. Number one, the maximum amount of explosives that are going to be used in one blast. And they're all timed. This has been going on for years, a certain amount of milliseconds between -- let's say this is the cliff we want to take or this is where we're going to start, and this is the front of it.

There may be holes here, here, here, here, here, here, and then the same amount of rows back, back, back, back, back. And that's usually determined by the owners of the company that want this particular thing done and their past experience in it.

My question right now is, oh, we're going to comply with the state as far as the fire marshal is concerned, but then again, how big of a blast are we going to have? In other words, each hole may take, in today's market, a two-and-a-half-inch bag of material now. Years ago it used to be dynamite or it used to be gelatin, ant (sic) bowl and so forth.

Now we have liquid type of explosives. Now, how much of this are going to go in each hole? And that's going to have a timing element. And the initial blast, I can only assume from what they're going to do, is they're going to take the first two or three holes and they will be on a timing element that makes this come out. Then the holes will come around like that, and they'll all blast out until the last of the explosive charges would be right here, and then you have what they call a face. That's what it's called when you're looking at a quarry; that's the face.

Now, it depends upon how much explosives are in each hole and how many holes are geared together to be detonated. We had a man from -- from Georgia Tech explain somewhat the milliseconds involved, but what I would suggest is for you folks, before the -- whatever, is to get some sort of report what's the maximum amount you're going to do so they cannot exceed that.

Also, the velocity. They should know the velocity of the explosive that can be done, not aboveground, but

what it does underground, because -- and that depends upon the density of the rock and the type of explosives that it does. Because an explosive puts a shock wave in a 360-degree circle. Excuse my throat. I've got a little bit of a problem there.

And the shock wave goes out. When it hits the end here where there's nothing, the shock wave dies, but it may continue in the 360 degrees for quite a while.

And I think this is what's got to be looked at for the people who live right over there and the people who may build in the future there.

And we can say, yeah, okay, you're going to comply with the fire marshal's office, but let us know, because not only the shock wave of the initial timing, but you may have three, four, five, six, seven, eight, nine, ten. I've done as many as 15 different timings on the same blast.

So we should see the maximum amount and make sure they adhere to that, because that amount will -- there needs to be an interpretation of the shock wave, the density of the rock, to see if there's going to be any movement at all of that building, not necessarily aboveground, but below ground. Will it shake any? Will it do this? Will it do that? And believe me, shock waves are brutal, I can tell you.

And I don't know what else to tell you except that we need to know something, not that we'll comply. How much explosive are you going to going to do at one time? What's the velocity of it? How is -- this shock wave that might be 23,000 feet per minute or whatever, how far is that going to go with a concrete slab like they do here, which is -- I think it's 4 inches normally in this area.

So that's all I'm going to suggest is, I'm not for the mine, I'm not against the mine. I just want to see the people protected that are on that side of the berm.

And I can say this in reference to what Roger said earlier about the distance between the mine and the homes. A hundred and fifty feet was the distance to the berm. But good Lord Almighty, I have never, never, never blasted a mine anywhere, anywhere, anywhere that there was less than probably a couple of thousand feet. Never did. It's just not feasible because of all the things that were brought out today for many, many reasons.

So I would suggest that all to make sure it is worthy of the people that live there not suddenly to be shocked in their chair. All right. Thank you.

CHAIRMAN STRAIN: Thank you, sir. We have a lot more to go on the blasting, so we appreciate your comments. Thank you.

COMMISSIONER SCHIFFER: I have a question, Mark.

CHAIRMAN STRAIN: Go ahead, Brad. Sir? Sir?

MR. CONTI: I'm sorry.

CHAIRMAN STRAIN: Yeah. The gentleman's got a -- I don't know if Brad's a gentleman. We'll just call -- Commissioner Schiffer's got a question.

MR. CONTI: Yes, sir.

COMMISSIONER SCHIFFER: Close to that.

MR. CONTI: Yes, ma'am.

COMMISSIONER SCHIFFER: Thanks. Anyway --

MR. CONTI: I have to put my glasses on.

CHAIRMAN STRAIN: See, I told you that long hair will get you in trouble.

MR. CONTI: You're right, it would.

COMMISSIONER SCHIFFER: We could get past this.

The question I had, though, is, do you think if we started blasting rather softly, you know, if there is such a thing, closer to the homes and then that way the lake would always be between the blasting and the homes; is that a smart progression?

MR. CONTI: Well, when they start -- when they start an intent to make a face so they can dig with the dragline into it, yes, they can. They cannot take this whole thing -- basically, it's not -- they want it also crushed up so that when they take -- they pick it up, they put it in a truck, take it to the crusher, there's not big slabs of it. You want it as small as possible. That's why I say, have them give you a definition how this is going to be done and show it to you.

But you're right, you could have only three holes blasted. Then you've got a little hole there. You want more because that helps to break the rock more. And the more explosive you have in there, the better the shock wave is, the

more it will break the stone.

COMMISSIONER SCHIFFER: Right.

MR. CONTI: And that's no matter whether it's granite, whether it's limestone, whether it's shale rock or whatever.

COMMISSIONER SCHIFFER: Okay, good. Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Okay. Before we call the next speaker, I was told at lunchtime by Ray that there are people here who have time deadlines that they may have to leave earlier than this meeting will end today. So if there are people who want to speak that have to leave early, I'd like to get to you first so you have an opportunity to talk today.

Has anybody in the audience got a time restraint? Ma'am -- so why don't we take you next, if you don't mind. And that will go for anybody following her. If you have to leave earlier, we'll be more than -- we'll put you up front, and then everybody still will be heard today, though.

MS. KURGIS: I have not been sworn in.

CHAIRMAN STRAIN: You can't talk from there, but come on up here, we'll swear you in. Everything you say has got to be on the microphone so this very young lady who's birthday is tomorrow, by the way, can take your words.

(The speaker was duly sworn and indicated in the affirmative.)

MS. KURGIS: I'm Sharon Kurgis, and I'm a Collier County resident as well as owning a farm up in the area of the project. In fact, Alico and I share a border. I'm your -- north of that orange grove, I'm your north neighbor, okay.

What I'm here to talk to you about today is a little bit different. I know that you've heard from a lot of people that are experts, and they're coming to you and they're talking about the environmental issues, the roads, the rock crushing, et cetera.

And I think I want to talk to you a little bit about something that I'd like you to keep -- tuck in the back of your minds. What we're looking at in this type of a meeting is the people from what I call Main Street and the people from Wall Street.

The people from Main Street, as you've been hearing, are basically your locals. They are your taxpayers. They've lived here. They have given up time out of their pockets away from their jobs two, three, four days maybe to come to these meetings. And that's time off work; it's commuting. They have some real concerns. They are the people that live here. They are the people that you are representing, and you are one of those people too, in a sense. You're not only a resident, but you're also on the planning board and work for the county.

The other side of the coin is that we have the people from Wall Street. And, yes, it is a publicly-traded company. Trades on the exchange. It's about a \$21 stock today. I looked it up earlier.

And when I -- I looked at what a publicly-traded company really does. Their goal is to maximize shareholder return. Let's take a look at every single way we can maximize shareholder return. What can we get for our shareholders today? We hear this now on the news all the time.

So what I look at in the history of Alico obviously is -- was originally sort of that good-ole-boy kind of corporation. They don't have a lot of shareholders. They have a very few number of shareholders, but they're very tightly controlled. And most of the shareholders do not even live in our county or near our county, okay.

So what I found in going through their K1 -- or 10K report -- hold on here. I've got a lot of this flipped over. Give me a moment -- is that, first of all, I think, if I put this together, the history of this company is obviously a land company maximizing return from the land, okay, mitigation, orange grove, maybe U.S. Sugar as a customer.

And as time goes on, we all know what has happened to the companies that are currently now working with the land.

And in looking at their last annual filing -- let me find my notes in here. In the good years, obviously they were getting land mitigation, citrus income, sugar income. They probably had some pretty good years up to August 2006.

Now, keep in mind that the markets did turn, banks have turned around, financing has turned around; 2007, 11 percent. Right in here, Alico Inc., annual return, minus 11 percent; 2008, minus 13 percent; 2009, minus 30 percent; in 2010, September, minus 20 percent.

Okay. Then you kind of look at the operating revenues, which is really sort of your cash coming in. In the

meantime, I pull up, on this company, how can we really maximize shareholder return?

Well, they have, I think, about a \$26 million tax dispute with the IRS, and one of the reasons for that, as a publicly-traded corporation, you're sitting down every day saying, how can we make more money? We have shareholders to satisfy. We don't have locals to satisfy. We don't have to satisfy the panthers. We don't have to satisfy -- we have shareholders to satisfy.

So they have done different land deals, including using an offshore agriculture-type insurance business. Yeah, move things offshore. It avoids a lot of tax implications.

You know what, I can't do that. The people that have given up their days out here, they do not have the same, you know, expertise loopholes, any other thing they can do to deceive to get a better return.

And so they're still disputing this because -- and this goes back 2005, '6. And one of the most recent articles I pulled up is that, you know, the IRS is basically demanding this tax payment as well as penalties. And they keep, you know, going back and forth. But it's basically over, if you think about it, whether that's the right thing or the wrong thing. It's just that's the nature of the company that we are dealing with today.

One of the things I did pull up in the report, which is my final thing to say -- a couple of more points. They're just really short. One, for the fiscal year that ended September 30, 2010, the -- Alico's largest customer which accounted for 23 percent of their operating revenue, which is the U.S. Sugar Corporation, Alico, you know, has -- is basically that particular -- as you've been following in the newspapers is U.S. Sugar is basically a company that is not going to be able to give them that same revenue, so now we're going to see another revenue loss possibly on the Alico side.

Another thing that I have pulled up is that at the time they've taken out their loans, like a lot of people have taken out loans, revenue is higher, asset values were higher, and they have a loan that basically says, the agreement provided that Alico must maintain a current ratio of not less than 2 to 1, a debt ratio of not greater than 60 percent, minimum tangible net worth of 80 million, and the debt-service coverage ratio not less than 1.15 to 1, or a breach of the debt-service coverage will not be considered in the event of a default.

You go through these things -- and it goes on in the next couple years. I can obviously give this to you. But they have put into their own -- their own particular report, they have made a statement that says that if this IRS particular penalty that they are trying to fight right now does not work out in their benefit, it will have a substantial impact on the company, and I have it, and I can certainly turn it in for you, and it's in their own handwriting in their own annual report.

I look at Alico, yes, a publicly-traded corporation, but my advice to a county looking at them putting in this -- obviously for their benefit, which is seriously needed at this time because there aren't any more rabbits you can pull sometimes out of the hat to make as much money as opening a mining operation, okay, especially when you're servicing debt, okay, and you've lost U.S. Sugar possibly as a major customer, and your best reporting income's probably coming out of your orange groves, which was your traditional business, and, obviously, my best recommendation is that I would deny this for all the reasons that are really the true reasons.

But I think you really need to open your eyes as why we're all here today and to really look at the people from Main Street and say, you know, these people are coming out here out of their own free will and good to say, it isn't environmentally right. I'm saying they're coming out with every single thing they could probably bring because this is what, as a corporation, we see happening probably every day. But I have all of it in this report, and I will put it together and give it to you.

CHAIRMAN STRAIN: Thank you, ma'am.

MS. KURGIS: Any questions?

CHAIRMAN STRAIN: No, just a comment. This is a zoning board --

MS. KURGIS: I understand that you're going to --

CHAIRMAN STRAIN: -- so our decision must be relevant to zoning matters. I understand your purpose for wanting to describe to us other circumstances, but we will have to make our decision based purely on our Land Development Code and Growth Management Plan.

MS. KURGIS: I think that's wonderful, and I'm glad that you know how loyal the Main Street people are here and the people that live here.

CHAIRMAN STRAIN: Thank you.

MS. KURGIS: Thank you.

CHAIRMAN STRAIN: Next speaker, Ray? Oh, does anybody else, before the next speaker, need -- have a time constraint for today?

(No response.)

CHAIRMAN STRAIN: Okay. We'll just move forward with those registered. And then after those registered speakers speak, I'll ask for any general audience that wants to talk.

Go ahead, Ray.

MR. BELLOWS: Brad Cornell.

MR. CORNELL: Good afternoon, Commissioners. I'm Brad Cornell, and I'm here on behalf of Collier County Audubon Society and Audubon of Florida. And I appreciate the opportunity to make some comments and participate in this hearing.

Our -- we have been working with the applicant for a good while. We have been looking at some of the technical issues and asking questions about this for some time, and our position right now is that due to the proposed mine's proximity to Corkscrew Swamp Sanctuary and the adjacency to the CREW Marsh, the Corkscrew Marsh, Audubon is concerned with the possibility of negative impacts to wetlands and wood-stork foraging habitat.

And this is why we have opposed all mines on Corkscrew Road that have been proposed or applied for in Lee County or Collier County. All of them have been in Lee County, obviously, except for this one.

Our specific concerns are questions about possible problems with the hydrologic modeling and assumptions that were used. We're especially looking at evapotranspiration and what numbers were used in the modeling assumptions.

Resolution of these questions is still being pursued with the applicant and with some other hydrology experts that we have been working with.

The applicant and their consultants have been very helpful in trying to answer our questions. So that dialogue, we hope, will continue.

However, I have a recommendation and an observation at this point about this issue. We need a wider examination of mines in a technical forum rather than a permitting forum. And the issue is that for decades there has been this question of whether a mine or the lake that results from a mine is a benefit or an impact to the surrounding wetlands and water resources. And this is a question that has been asked in the lake-belt region over on the east coast. It's a question that's being asked in the Everglades agricultural area, and it's a question that we have in Southwest Florida on all these kinds of mining operations.

We're not getting enough good, objective science to answer these questions. And so my suggestion is that we collectively, as a community, need to convene a forum, an objective forum, to assemble that science and look at these questions in real good depth outside of a permitting discussion, because here the stakes are high and there's a lot of tension. So a suggestion.

Finally, I want to clarify a point that is really important, and it's a policy issue having to do with the Rural Land Stewardship Area overlay.

Collier County Audubon Society and Audubon of Florida are fully supportive of the Rural Land Stewardship Area overlay policies, including -- including the consideration and allowance for all the appropriate land uses in the open designated areas, such as the conditional uses like earth mining or a stewardship receiving area; an SRA would be something like Ave Maria or a town.

We don't believe that questioning this particular use, this particular Lost Grove Mine application at this site, signals any fault in the Rural Land Stewardship Area overlay. Those policies also envisioned site-specific reviews for any particular location. So this is in keeping with those policies. The open area and mining is a conditional use. So I think it's fair to ask these questions, and so we do.

Thank you very much.

CHAIRMAN STRAIN: Before you leave, any questions?

(No response.)

CHAIRMAN STRAIN: I've got a couple. During the RLSA hearing, I remember you were present and you were very vocal about distance of excavations from wetlands for hydrology purposes. I believe I remember the distance you were requesting, and I know we debated it at those meetings. Do you remember that distance?

MR. CORNELL: There have been a lot of discussions about setback distances from wetlands for -- if you're going to be digging canals or lakes -- stormwater lakes or even a mine. And at the time, going back to the late '90s

and early 2000s, we were looking at the Center for Wetlands at the University of Florida data, and they had a number of different setback numbers -- this was Mark Brown's information and studies -- I want to say 300 feet, but --

CHAIRMAN STRAIN: I think it was much more than that, and that's why I'm trying to understand if you changed your position.

MR. CORNELL: And I may be confusing this with some setbacks from rookeries, because that was another issue associated with wetlands that we want to protect. So that's a good question, and I can't answer it specifically.

CHAIRMAN STRAIN: Well, I mean, it's in the record. It's just a matter of finding it, so --

MR. CORNELL: Okay.

CHAIRMAN STRAIN: I'm curious, because I know that you made a very strong argument then, and I believe some members of this panel who were there at the time supported your position, and I think I did, and I think we tried to get the RLSA to have language that met the criteria you were trying to espouse because it seemed to be accurate. But I don't know what that -- I can't remember the exact. I thought it was greater than 300 feet, though.

MR. CORNELL: I don't remember a specific setback distance. I do know that if you look at the data on impacts to wetlands in a distance from a canal, for instance, you can go as far as two miles from that canal and still measure groundwater reduction, so that --

CHAIRMAN STRAIN: You weren't suggesting two miles at the --

MR. CORNELL: No. And the other thing to say is that all these things are site specific. That was down in the south Golden Gate Estates, and those canals were 6 feet deep, you know. This is a little different landscape, and it's a different issue.

There are questions about the shell beds buried in the overburden that could be extra transmissive, and you could induce flow considerably far off site, because the linear shell bed could go a fair distance away from where you're digging a hole and dewatering, and you could lower the water in a wetland unwittingly and unintentionally.

CHAIRMAN STRAIN: Okay. When you came up here, you started your discussion with -- that you have concerns, and you represent Audubon, right?

MR. CORNELL: Right.

CHAIRMAN STRAIN: Right?

MR. CORNELL: Right.

CHAIRMAN STRAIN: And throughout your dissertation I didn't hear a position. Are you for or against this mine?

MR. CORNELL: We are trying to answer questions. If we have to make a recommendation now, we have to oppose it on the -- to be prudent. And recognizing that there are also planning considerations, we've invested a tremendous amount of our own staff time and energy and money in both the Rural Land Stewardship Area and the Lee County DR/GR policies. In fact, just a couple of weeks ago we testified and brought expert witnesses to the Cemex DOAH hearing in Lee County defending those policies to keep rock mines off of Corkscrew Road.

We think those are prudent policies for all kinds of reasons, for planning reasons in terms of the community, and also for, in this case, where we saw the great potential for hydrologic impacts on all those other mines on Corkscrew Road.

This mine may be different recognizing that the orange grove irrigation is an impact today, and the cessation of that irrigation could be a benefit, and that's the modeling that they're putting forward. We're asking questions about whether they have fully considered evapotranspiration figures that need to be incorporated in that, because when you dig a lake in South Florida, you've got a lot of ET. So that's why we raised that question. If we have to make a recommendation, which I guess here we are in a permitting forum, we'd have to say we're opposed.

CHAIRMAN STRAIN: I think the rubber's meeting the road here, so, yeah. It's today or the BCC, and our recommendation goes to the BCC. So whatever comments there are, we'd like to know where you stand, and thank you for your input. Appreciate it.

MR. CORNELL: I do think it's important to remember that these questions about hydrologic impacts are not answered fully, and I think that it -- we all owe it to -- we need rock, obviously, as a community, so we need to answer these questions very specifically and try to get at the nut of the science of this question. So I'm not satisfied with where we are right now.

CHAIRMAN STRAIN: Well, I think there's going to be a lot more questions before the day's over and before the next day's over, so we'll try to get to the bottom of some more.

Thank you.

MR. CORNELL: Sure.

CHAIRMAN STRAIN: Appreciate it.

COMMISSIONER SCHIFFER: Mark, I have a question.

CHAIRMAN STRAIN: Oh. Go ahead, Brad.

COMMISSIONER SCHIFFER: The wood storks, you were concerned about them, but obviously they're not using the land now. So wouldn't -- what's your concern now? And then in 50 years if we build this thing properly with good littoral zones could it be an asset for the wood stork?

MR. CORNELL: That's the question to ask, and the answer could be yes. We're concerned that the answer is no. And the answer has to do with whether you're going to be lowering water levels in adjacent wetlands in this area. And the foraging areas for wood storks are particularly vulnerable because they're relatively shallow. So a small fluctuation has a big impact.

You know, if your wetland is only 6 inches deep and you drop it 7 inches, there's no wetland left. There's no foraging.

So the answer to your question is a little swishy, but we're concerned that it may be an impact.

COMMISSIONER SCHIFFER: But doesn't the groundwater throughout the year change, you know, certainly more than 6 inches and stuff?

MR. CORNELL: It does.

COMMISSIONER SCHIFFER: So doesn't nature adjust constantly to changes in groundwater?

MR. CORNELL: It does, but timing is everything. So if your groundwater levels and the wetlands aren't at the right levels at the beginning of the nesting season for wood storks -- mind you the largest nesting rookery for wood storks is at Corkscrew Swamp, very close to this.

If you don't have the right levels at the right time of year, which would be November, December -- that would be right now -- then it's too late for the storks to get enough food to feed and bring off fledglings in the nesting season. If you wait till after -- if the wetlands are too deep, they don't dry -- dry down till after January, you have a precipitous drop in productivity in nesting.

So the timing is everything. Yeah, you can have water all year-round, but if it's not the right depth at the right time of year, November, December, then we're in big trouble.

And four out of the last five seasons there's been no nesting at Corkscrew Swamp Sanctuary; that's because we have an incredible dearth of short, shallow, seasonal wetlands in Southwest Florida. I mean, it's logical. Those are the ones that are easiest to fill; they've been converted to agricultural or urban uses. That's the landscape we're dealing with.

So any one that's left is really important.

COMMISSIONER SCHIFFER: Okay. The recommendations from the Lee County environmentalist, do you agree with those to create nesting or feeding areas for the wood stork?

MR. CORNELL: Absolutely, that would be -- and I believe that is part of the reclamation plan to make the littoral zones have foraging habitat. So, yes, that's an important component of a condition for such a use.

COMMISSIONER SCHIFFER: Okay. Thank you.

MR. CORNELL: Yeah.

CHAIRMAN STRAIN: Brad, Corkscrew Swamp Sanctuary, is your organization -- don't they own that or have some control over it? Isn't it Audubon Sanctuary?

MR. CORNELL: Yes. Oh, yes, absolutely.

CHAIRMAN STRAIN: Okay. How far is this mine from the boundaries of the sanctuary; do you know?

MR. CORNELL: I don't know. It's not far; couple of miles.

CHAIRMAN STRAIN: Are you here speaking on behalf of Ed Carlson and the people that work at the Sanctuary?

MR. CORNELL: Yes.

CHAIRMAN STRAIN: Okay. So they've weighed into this with your comments?

MR. CORNELL: Yes. What?

CHAIRMAN STRAIN: They have weighed into this by the fact that you're here today speaking on their behalf?

MR. CORNELL: Correct, correct.

CHAIRMAN STRAIN: Okay. Thank you.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you very much.

MR. CORNELL: You're welcome.

CHAIRMAN STRAIN: Next speaker, Ray?

MR. BELLOWS: Tony Holman.

MR. HOLMAN: Good afternoon. My name is Tony Holman, and I live in Wild Cat Farms. And just to keep it short, I am opposed to this mine because I do not want a mine in my backyard. And that's all I have to say.

CHAIRMAN STRAIN: How long have you lived there for, sir?

MR. HOLMAN: Eight years.

CHAIRMAN STRAIN: Eight years, thank you.

MR. HOLMAN: Thank you.

CHAIRMAN STRAIN: Thank you very much.

Next speaker, Ray?

MR. BELLOWS: Edd Weiner.

MR. WEINER: Good afternoon, Mr. Chair, members of the commission. My name is Edd Weiner, and I'm the COE of the Lehigh Acres Economic Development Board, I'm the president of the planning panel, and I'm the president of the Community Council in Lehigh Acres.

I guess an initial question I would have is how many on the panel are familiar with Lehigh Acres, where it is, who it is, what it is, and what it does. And I'll make it a rhetorical question, and I'll just tell you it's a real small community in Lee County. It's 96 square miles with 90,000 people in it. It's bigger than the City of Orlando, bigger than the City of Tampa, and bigger than the City of Miami.

We are an unplatted unincor- -- sorry. We are a pre-platted, unincorporated area of Lee County. We have 130,000 lots in Lehigh Acres; about 80,000 are occupied. We have 23,000 septic tanks. We have 21,000 wells.

We are served by State Road 82, by Daniels Parkway, and Gunnery Road, by Palm Beach Boulevard, and to some extent by Colonial Boulevard, which feeds into Lee Boulevard.

Now, if you're not familiar with Lee County -- I mean with Lehigh Acres -- that is totally meaningless to you. Let me just tell you that the mine that comes up Monday morning in front of our county commission, the Lee County Board of County Commissioners, the Troyer mine, has been recommended for denial by our hearing examiner and is being forwarded to the County Commission with that recommendation.

And one of the reasons that it's been denied or is being denied is because out of Troyer mine, which only has one exit out onto State Road 82, they project some 1,400 trucks per day to enter State Road 82.

Now, I don't know how to describe that number in any other way than putting a two-lane road which was never designed for trucks, which is a failing road right now, into operation with 1,400 either 6-, 8-, or 18-wheel trucks on a road that was just resurfaced by the State of Florida for most of its portion. The State of Florida was kind enough to give us a shoulder. I think it's, in most places, 30 inches wide, in some places 36 inches wide.

And after that shoulder, the grassed area on either side of the shoulder falls off radically into drainage swales. I'm not sure where any of these trucks are going to pull over for service or for -- repair a flat tire or for engine repair or whatever, and still have traffic moving.

The gentleman from David Plummer -- and I'll probably screw up his name -- Ron Tacone (sic) -- made mention of the fact that State Road 82 has probably in the vicinity of \$92 million worth of improvements coming to it.

One of the largest improvements right now goes from Interstate 75 to Lee Boulevard. And if you again, are not familiar with Lehigh Acres, it is absolutely nowhere near the Troyer mine and absolutely nowhere near the Lost Grove Mine. It is a road that has just been built or being completed to help Lehigh Acres residents leave Lehigh Acres and go work someplace else, because we don't have a lot of commercial property.

He made mention of Daniels Parkway and he made mention of Colonial Boulevard as also being improved, and those also are for our pleasure of leaving Lehigh Acres to go work someplace else and spend our money someplace else.

The money that is going to be spent from Lee Boulevard west -- I'm sorry -- east to State Road 29 by the

State of Florida in the millions of dollars is on the Lee County MPOs design list. It has never been -- it has never been funded. It has never been funded by the State of Florida. The best numbers that I can come up with are 2035.

And looking at this commission, there's probably only two of you that are going to be here in 2035. So I don't know what -- why are the two ladies looking around? I don't know.

I don't understand how our benefit or a benefit to State Road 82 from this mine is going to be extended to us both in Collier County and in Lee County, by the four-laning and possibly six-laning of State Road 82 in 2035.

Many hundreds of thousands of years ago I was an elected official on the East Coast, and I didn't do real well because I deal in common sense. As you well know, government and common sense don't go well together.

Government says, if it's in the book, you can do it. Government says, if it's not in the book you can't do it. Government says, if it's in the book and we left something out, you have to figure out a way to do it.

I have read a number of the suggestions for conditional approval. I'm not sure that I'm smart enough to understand some of these things. The applicant says he's going to start mining operation from six in the morning to six at night. Again, the gentleman from David Plummer said that the peak hour is ten in the morning. I want to know what -- the trucks that arrive at 5:30 in the morning and start loading their loads, I want to know what's going to happen to those trucks between 6 o'clock in the morning and 10 o'clock in the morning. Are they just staying inside the mine? And then everybody's going to leave at 10 o'clock in the morning and impact State Road 82 all at the same time?

It strikes me as -- that some of the things that we're addressing are things that are issues that staff, possibly on both sides, have taken on as a challenge to prove one is right and one is wrong. I'm not sure I understand the entire concept of -- and it's, I guess, on the proponent's side, of having the trucks -- 60 percent of their trucks travel west on State Road 82. I'm not sure where they're going.

If they're going to Interstate 75 to do their traveling north on the interstate, why aren't they going to Corkscrew Road going out to 75 which is probably five miles away or seven miles away? Well, the answer probably is, because if you travel Corkscrew Road at the wrong time of day, you're going to get yourself killed, and if you have two trucks passing each other at the wrong time of day you're going to get yourself killed.

So I guess the answer to the question is that they've got to come out on State Road 82 and travel west on State Road 82 through our brand-new 82 interchange into Interstate 75.

The logic of some of these statements that have been made all through this are just a little troubling to me. And, again, I'm trying to deal in common sense rather than -- you know, I couldn't tell you a wood stork from a panther, so I'm not that kind of an expert.

Here's another problem that I've had with the blasting component. Everybody is -- sorry. Their expert talked about a survey being done prior to blasting and a survey being done after blasting. Now, you're taking a picture of the outside of the house before, and you're taking a picture of the outside of the house after.

Now, during blasting your china's going to fall off the table or your curio cabinet and fall on the floor. They're going to call the insurance company to come into your house to take a look at the china that's laying on the floor.

Now, does the insurance company say, you know, your little three-year-old grandson reached up and pulled that china down, or the little puppy dog jumped up and down? I mean, how long is the argument going to go on about what happens inside your house rather than outside your house?

I think outside your house is almost a pretty well-settled argument. I'm concerned about the -- the ramifications of what goes on inside your house.

Blasting is an extremely touchy -- bad choice of word. It's an extremely delicate thing to operate. You heard Mr. Conti say that everything travels in layers and travels in 360 degrees. We have, on the north side of State Road 82, our residential area, which is still undeveloped, thankfully, that is going to be adjacent to this mine. The ramifications in 5 years, 10 years, 15 years, whenever this area gets developed and they're still blasting, are substantial, and they're substantial for Lehigh Acres.

I would appreciate, Commissioners and Mr. Chair, if you would forward this to the County Commission with a negative recommendation, and if I can answer any of your questions, I'd be delighted to.

CHAIRMAN STRAIN: Anybody have any questions? I have one. You said in the beginning you represent various groups in the Lehigh Acres area?

MR. WEINER: Yes, sir.

CHAIRMAN STRAIN: Okay. Your position here today was a position that was voted upon by those groups in a meeting more or less or --

MR. WEINER: By the Community Council, by the planning panel, and by the Economic Development Board.

CHAIRMAN STRAIN: Okay. So they've all taken official positions on this?

MR. WEINER: Yes, sir.

CHAIRMAN STRAIN: Okay. Thank you.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Thank you very much.

Next speaker, Ray?

MR. BELLOWS: Patty Whitehead.

MS. WHITEHEAD: Good afternoon, Commissioners. My name is Patty Whitehead. I live in Estero. I'm also a member of the Sierra Club-Caloosa Group in Estero, and I also should say that my family has been in the development and construction industry for a number of years; decades, actually.

I was reviewing the testimony of the applicant from November 3rd and really taking the time to go over a lot of these facts that they're offering. You realize how -- you know, how the testimony's riddled with so many oversimplifications and, you know, dare I use this term "half truths," quite honestly.

One of them being the slide that I'm presenting right now. You know, in their testimony they state that the confining layer varies in depth and it also varies in thickness. Obviously, that's not what is depicted here. This is, I guess, in an ideal world how you would have conditions, subsurface conditions when you are mining.

Their testimony states that depth of confining layer is 45 to 145 feet below land surface. Confining unit is 40 feet to 75 feet in thickness.

My question is, you know, there's all sorts of issues surrounding mine subsidence and water-quality impurity that aren't addressed by this applicant. Where are their expert witnesses?

You know, there are issues in the state right now going on, and I know this as a contractor in the State of Florida because I do -- I do inspections. And one of the issues is sink-hole inspections. There has been a dramatic rise in sink holes throughout the state. This is a fact.

Florida Senate issued a white paper on this. We're talking about exponential increases, and a geologist who is -- and I didn't bring his name with me, but I can certainly present -- put all this into evidence if you wish to accept it. In fact, you know, I hope there's an opportunity to present this further, in further detail, not to take up the time here at the podium.

But a geologist who was recognized within the state, I believe he was hired by the state, said, these sink-hole occurrences are directly tied to the increase in development and construction throughout the state. I mean, we're drawing down the aquifer. That's what we're doing. We're sitting on a bed of carse. It's Swiss cheese, and we're collapsing it. That's one issue.

The other issue is we have, you know, water-quality issues. We have to maintain a drinking source for the people that live here. That should be primary before adding more people to the area and more development. I mean, you know, I think it was Edmund Wilson -- he's an esteemed scientist. I think he had something to do with discovering DNA strand -- said that, you know, growth for growth itself is only what cancer does, not what municipalities do. But that's what I'm seeing going on here.

I've been here since 2002, and it's just absurd, honestly. I mean, you know, you issue permits. You just open the floodgates for permits. And what do you do? You just -- you bring down all kinds of opportunists in this area. There is no growth control. It is completely out of control.

The issue here with water quality is --

CHAIRMAN STRAIN: Make sure you use the mike, miss, so they -- they've got to get everything you say recorded, so --

MS. WHITEHEAD: I'm sorry. Sure, yes.

The issue here with water quality is -- is that, you know -- just look at this right here. You see this? This is the lake that they intend on creating. Okay. What is this here? This is sandstone. Our water is filtered through that sandstone to get to this aquifer.

You eliminate this entire layer, you're contaminating this aquifer. That's valid. That's science. I mean, I'm not a scientist, but that's common sense. That's obvious. There are just so many unanswered issues here. This is -- the risks of you -- the county allowing this mine are huge.

Now, I know you've debated with Lee County, but -- I understand the principle of the DR/GR. The principle of the DR/GR is to confine these mines to one area and say, you know, it's a necessary evil. We know it's a necessary evil. As I said, my family's in construction, the development business. We don't stay up at night worrying about the commodity price of sand or crushed stone or whatever, you know. I think we're all astute enough in this world, and none of us are so naive to think that commodity pricing anymore is driven by supply and demand. It's not.

You know, there's -- please, I beg you, give careful consideration to what they plan on doing here. The ramifications are huge. And the environmental impacts and the impacts to the rural life in that area of Corkscrew Road, your county and Lee County, will be irreversible if you allow this to go through.

It's a -- I really don't understand how this is allowed through a conditional use. A conditional use would seem to imply something that's temporary and that can be easily remediated. This is neither temporary -- because under current economic conditions, this mine could go on forever. You know, it's not like they're going to yank the stone -- the rock out and then close up shop and leave, and everything will be wonderful. That's not what's going to happen.

Those are -- basically, that's the crux of my comments. Any questions?

CHAIRMAN STRAIN: Any questions?

(No response.)

CHAIRMAN STRAIN: I have one. You said you were a licensed contractor. What are you licensed in?

MS. WHITEHEAD: I have a certified building contractor's license.

CHAIRMAN STRAIN: Is that a -- certified building, so -- okay. Okay. That's all I -- anybody else?

(No response.)

CHAIRMAN STRAIN: Thank you very much.

MS. WHITEHEAD: Thank you.

MR. BELLOWS: Jane McNew.

MS. McNEW-MORAN: Good afternoon. My name is now Jane McNew-Moran as of this weekend.

CHAIRMAN STRAIN: Well, congratulations.

MS. McNEW-MORAN: Thank you. I come, having arrived in Florida in October of 2004. I never dreamed that my life would take this path, coming to meeting after meeting, whether it's in Lee and now Collier, but at the outset, because of I am here from Lee, I think we're joined at the hip. Rock does not know our borders and does not respect that.

And we have a common environment, a precious heritage that's had a lot of insult. And to use a phrase that's sensitive, there is a tipping point, and I think we're all aware of it. And I only ask that in this regard that we find our common ground and work together in a collegial way, and I'm sure that that can happen.

So I'd like to go on by saying that I am a retired nurse with a master's degree in epidemiology, and my focus was cancer in occupational medicine before I retired.

I also have had, perhaps, a unique view of this problem that we have with mines, because I was born in Carthage, Missouri, 17 miles from Joplin, a mining town. When I was born, the mines had just finished up, and it was lead and zinc mining and -- on a limestone base, in a limestone base. And I grew up seeing chat piles, because the chat was the rock that they crushed, and they didn't care about it in those days.

But we had pits, not lakes, everywhere, and we had -- it was a moonscape. It was a moonscape all around Joplin. And, interestingly, the people that made all the money from the mines moved over to my town where I was born. So we had the grand Victorian houses and lots of money.

It was sad to see the agricultural land destroyed as it was. It was a moonscape, and it remained a moonscape for almost a hundred years.

My next experience with that county was, perhaps, when I was working with the National Institutes of Health, and one of my colleagues, Dr. Joseph Fraumeni, had published his first collection of data on cancer rates by population in each county of the country.

And in Jasper County, the lung-cancer rates were in the highest percentile, very high, which brings me to one of my principal concerns, which I hope you will consider, because you must consider for the next hundred years because that's just the way things will probably be.

What would be in the groundwater as a result of mining? You will have different explosives there. One of the gentlemen today mentioned that there's now -- I think Mr. Conti mentioned that there's liquid blasting materials, but there was dynamite, prills, nitro, all the usual stuff when I was a kid. And the limestone is labyrinthine, and the flow under the ground percs a long way going horizontally. And you leave all that blasting material in the water supply, and it will be there for heaven only knows how long.

We have lots of multiple exposures. Our environment and our genes are the two principal sources of whether or not we will be well or ill, and it will be predictable in the future as our physicians learn more about our environment. So we have to take that leap of faith that we do the best for our children and our children's children.

And then it comes to the next issue. Do we need the rock now? Do we have a way of organizing the use of our rock based against lots of the explosive growth and then where we are now with almost no growth?

But the other issue associated with use of rock and having an available supply is that it's my understanding that the Port of Tampa has quadrupled its size, that they will be bringing in rock from out of the country. One place that's been said is the Yucatan Peninsula.

So I leave you with all these thoughts to think about. My principal concern living in Lee County is that 80 percent of our water comes from the area in front of Lost Grove and in front of the Troyer and in front of so many other mines out there, because Lake O's sheet waterflow is in the southwesterly direction. And here comes the Lost Grove being higher up, closer to Lake O, and its impact, its spread will conceivably be larger, and we will share in polluted, damaged, contaminated water. Well, then, okay, so fine, there's more water. Just dig deeper. Well, do you-all hear the cash register ringing? I do. That means reverse osmosis, much more expensive water. So we have to think about these things and be conservative and careful in our actions.

There will come a time when science can only go so far. Then you have to take the position of making a decision, which is essentially not having all the facts. You have to decide for our fate. And there are many more things I would like to discuss, but I think that I will close in saying that I do support everything the Estero Council of Community Leaders, of which I am a member, support, the Sierra Club, and I've been a member of the Caloosa Group, and all of the nature conservity (sic), all of their positions, I support those and I, please, hope and pray that you will reject this mine application.

I also want to add one further thing. I put on a program in Collier County to discuss Lost Grove many months ago. I went around and talked to people living on the perimeters of Lost Grove Mine. You have one side, the northern side, which is pretty much silent. And I'm glad to see people here from Lehigh Acres.

But I knocked on so many doors that day. Some were even in Hendry County. And I was stunned -- because I'm not that familiar with Florida yet -- and they all know about mining. I said, well, you're hearing blasting? How? Because I didn't know. And they said, oh, we hear blasting all the time, and we just hate it. And these people -- maybe their English is not so good, but they're hard workers, they own the land, they're trying to make their way in this world, and they are very disturbed by noise.

And I went north and west and was then in Collier County, and in Lee County. And Lehigh Acres, there's very dense community up there. It's new. They're struggling. There are many foreclosures. There are many squatters. There are many residents there that are hanging on by their fingernails, and they hear the blasting all the time. And you get a unanimous knee-jerk reflex, oh, my God, not another mine. Not so close to us.

So please consider those people who don't know how to come to testify in their own behalf. And I thank you so very much.

CHAIRMAN STRAIN: Thank you, ma'am.

MS. McNEW-MORAN: Thank you.

CHAIRMAN STRAIN: Okay. Next speaker, Ray?

MR. BELLOWS: John Ban.

MR. BAN: Ray, could you put up a couple of pictures for us?

Thank you for letting me come and speak in front of this commission today. I live on 3350 Whidden Loop Road. I guess you would consider it ground zero for blasting.

Water. What is going to happen to my water? There's a lot of things that I'd like to say, but they were so eloquently (sic) testimony today. I just would like to add some personal things that happen to me on a daily basis. This morning I heard the first trucks run at four o'clock in the morning down Corkscrew Road.

As far as the blasting goes, this is a project that's going to go on for years and years and years, so that this is

the daily blasting or whatever -- the amount of blasting, I have no idea. I have no idea what the damage is going to be to my property.

I know that the home I live in is an older home, and I know there's going to be damage to my septic. I'd like to read something that was given to me by staff in regards to my water well, and this is from the hydrologist for the Lost Grove Mine. And it goes like this: Mr. Ban's property is on a downgrading side of the mining lakes. So water levels in this well should not be negatively impact (sic), okay?

If anything, he might expect a slight raise (sic) in water levels. And if his well is, in fact, a shallow well, essentially no impact if he taps the deeper sandstone aquifer, excuse me. So what that's telling me is, yes, I can have water if my well dries up, but at whose expense? At mine.

You know, I -- there are so many questions that I have and so many more to be answered, and this is just one example of an early denial of responsibility if something does happen to my well.

The -- as far as the water levels right now, I think they should be looked at to find -- and establish the current levels and then further down the road, if there is an impact, what is the impact, but we have nothing to start with here.

I know it's going to cost me financially. I know that if there's damage to my home -- the gentleman talked about plants, glass jars falling off walls and whatnot. I know also that that's not covered by my insurance. There's no insurance for blasting. If any damage is done to my home, I can't make a claim. I have to go after the applicant.

I'm not prepared financially to put these -- put my family in a hole by having to worry about putting in a well, septic, repairing my house on a constant basis, or chase Alico around the country to try to get some mitigation. It's going to probably be cheaper for me just to go ahead and bite the bullet and pull out my wallet.

With that, I'd like to just say thank you for your time. And oh, by the way, historically Corkscrew Settlement is about a hundred years old this year, and today I was given some great information that we are now in the Guide of Historic Sites of Collier County, the brochure that's passed out to visitors, and we hope to keep the ambience of the property the way it is.

As you can see there, it's a beautiful spot. My grandkids love it, and we want to give it to them someday.

Thank you.

CHAIRMAN STRAIN: One question. You read a statement in the beginning.

MR. BAN: Correct.

CHAIRMAN STRAIN: Who -- where'd you get that statement from?

MR. BAN: This is from a conversation that I had with Chris D'Arco, and he contacted the applicant. I expressed my concerns about my water well, and this was the answer he got from the applicant to Chris, and then Chris forwarded it on to me.

CHAIRMAN STRAIN: Did Chris say who he spoke to at the applicant; do you know?

MR. BAN: Yes, he did.

CHAIRMAN STRAIN: Can you tell me that?

MR. BAN: Pardon me?

CHAIRMAN STRAIN: Can you tell who it was?

MR. BAN: Who -- in the applicant? The hydrologist.

CHAIRMAN STRAIN: Oh, the applicant's hydrologist?

MR. BAN: Correct.

CHAIRMAN STRAIN: Okay. Thank you.

MR. BAN: Schlumberger, whatever, Water Services.

CHAIRMAN STRAIN: Okay.

MR. BAN: So this is in their words.

CHAIRMAN STRAIN: Thank you.

Mr. Midney had a question.

COMMISSIONER MIDNEY: Oh, I wanted to see the second picture.

MR. BAN: Oh, sorry, sorry. Well, as you can see, this is not a good picture. That's quite a lake, and I -- you know, and I'm only a thousand feet from Corkscrew Road. I was probably -- I was actually one of the first people notified about the mine. And that's just a scary thought of what's going to happen to the wildlife habitat, and I haven't even touched that. But it's a great place. Just, please, try to keep it that way.

Thank you.

CHAIRMAN STRAIN: Thank you, sir. Appreciate it.

Ray, next public speaker.

MR. BELLOWS: Kevin Hill.

CHAIRMAN STRAIN: Heidi, do we need those pictures for the record?

MS. ASHTON-CICKO: Yes, I'll take them.

CHAIRMAN STRAIN: Thank you.

Okay. Mr. Hill, go ahead.

MR. HILL: Good afternoon, Mr. Chairman, fellow commissioners, my name is Kevin Hill. I'm representing Corkscrew Road Rural Community, also a member of the Estero Council of Community Leaders. I was an invited member of the Lee County DR/GR Advisory Committee. Also gave an invited talk to the State of Florida DOT strategic aggregate's task force to provide viewpoints on mining as they relate to community planning.

I'm also a resident. I live on Corkscrew Road in Lee County probably about three miles or so from this proposal. And so I have some background and experience with nearby mining. And I would like to share those with you.

I also wanted to clear up a couple of misconceptions that I heard about what's going on in Lee County with related -- with regard to mining and as it related to the DR/GR Comp Plan amendment that's currently just gone on -- undergone a challenge, and we're awaiting word on that.

That was a grassroots effort from the very beginning and included all stakeholders that had, you know, a stake in the decisions on how the DR/GR would be planned out as it relates to the various land uses.

You know, we had residents, rural residents, we had coastal urban residents, we had conservation group, and we had miners, and we had large landowners who were not yet miners but had an interest in being one.

And that committee worked very closely together with the -- with the consultant that was tasked with putting together a comprehensive planning approach in the DR/GR for all these uses; conservation, mining, agriculture, and rural residential and coming up with, you know, a way that minimized the adverse impacts, minimized the conflicts, gave some certainty in the future for all those stakeholders, and we came up with a good plan. That was the basic premise.

And the premise was in regards to mining, and it wasn't strictly about mining, but that was a key component in what was driving this -- was that it's an impactful use and had already been concentrated in Lee County with Harper Brothers mine, Florida Rock mine, No. 1, and others in the -- or the Yunquist Brothers mine, RMC, those were all concentrated in an area along Alico Road, and those impacts were already manifested. They're done.

The water that used to flow from up towards Lehigh, up around the No. 4 Marsh would come -- would come down every summer and across Alico Road before it was paved, before there was a lot of mining out there. It would -- it would flow over the top of Alico Road every summer. It didn't matter if it was a dry summer or a wet summer, it always flowed across that road.

And Alico -- or Lehigh Acres was already in place, 82 was already in place. They farmed, and the only thing that changed from those early years back in the '70s was that mining went in. Where that water used to flow across Cork- -- or Alico Road was called Stewart Strand, and that was surface flow. It was sheet flow. And it was deep every year. We'd stop and play in it when we were kids. They had whole crossings to get, you know, vehicles farther down the road.

There isn't -- that water doesn't flow anymore. It doesn't -- it just doesn't -- there -- after we had all that rain a couple weeks ago, I went and looked, and there's no water going under there at all. The biggest change in that area has been mining.

And so those -- that wetland -- that Stewart Strand is forever compromised. You'll never put water back in that flowway. It's impossible to do. If you look at any rock pit, you won't see a rock pit that overflows like a natural lake does. There's no way of putting enough water in there to make it overflow. It just doesn't happen.

And so that's -- you know, that was the premise behind the DR/GR Comp Plan was that this was impactful not only from a compatibility standpoint but also from an environmental standpoint, water standpoint.

And so the idea for Lee County was to restrict, geographically, this use to an area that we know is proven in rock. We know the reserves are there. We know we've got permitted reserves to last at least until 2030 to satisfy 80 percent of the demand for a seven-county region, and restricting those and relax the restrictions there, relaxing the requirements that they've got to do for monitoring and so forth, because the damage is already done. You can't fix it,

you can't undo it. But it makes much more sense to do than to scatter these uses all over the county.

And so, you know, that's the basis for this balanced and reasonable thoughtful approach that all the stakeholders had a hand in.

And what we're seeing here now is that we've got a large landowner who actually owns land with reserves still left in Lee County, but they're hopping across county lines to get a new permit and to escape that thoughtful planning that went in place in Lee County.

We haven't had an approval for a mine on Collier -- on Corkscrew Road since 2001, and we don't intend to have one whether it's in Collier or -- Lee or Collier. So that's the premise.

Compatibility issues, I think, is what you need to consider in coming up with a recommendation to deny. A miner will tell you that that's not a compatible use with residential whether it's rural or urban.

I live within a mile from what used to be the Westwind mine. It's been closed down for about a year and a half because of economic conditions, as you know.

But that was a rock mine that's within a mile from my house. I heard it every day. I was impacted every day. My house has got cracks in it. They didn't have a program, unfortunately, where they had a pre-assessment and a post-assessment, but I never went to anybody because I can't prove that that's what did it, but it wasn't there before the mine and it was after, and it was a 20-year-old house when they started mining. So I'm pretty sure that that's, you know, how it happened. But I've got cracks all the way around my foundation on a CBS block house.

But that operation had operating conditions. There just wasn't a whole lot of enforcement of those conditions, you know, and it wasn't incumbent on the residents to be the policeman. So, you know, they had operating-hour conditions that they chose to ignore. They had -- they had setbacks that they ignored, and it was just the cost of doing business. They got fines, and they continued to operate.

So you can understand why people aren't really necessarily going to put stock in what conditions that you might apply to this particular use because our -- you know, our experience has been that those haven't done us a lot of good.

The conditions that Collier County imposed on the Jones Mine really haven't been tested yet. I mean, you might go to talk to some residents out there and say, you know, we applied some conditions to the Jones Mine and, you know, do you feel like your -- that the county protected you in that case?

Well, I don't know when Jones Mine was approved or when they went into operation. If it was after 2007, then they haven't really experienced what that mine could mean to them from an impact standpoint. They haven't seen -- you know, all these traffic studies that you see that, you know, 10 percent's going to go to this way and 40 percent's going to go this way and all -- and we're going to serve the south -- or we're going to serve the northern market area and so forth, that doesn't -- it doesn't amount to anything.

What matters is if they've got a job -- if they've got a -- you know, a buyer, wherever that buyer happens to be, they're going to get them as much rock as they can possibly supply in any given day.

It's not averaged out over 35 years. It's the capacity of that mine to fill dump trucks and get them to the location they're going. And if it's south on -- you know, if it's south in Lee County, 100 percent of that truck traffic's going to go down Corkscrew Road, and they're going to be, you know, one behind another as fast as they can move them out that day.

If they get a DOT contract for a major road and they need road base rock to -- you know, to build a new road, DOT's going to want that material at night. They don't want to have that on urban segments in the daytime. They're going to want that at night. So they're going to come back to you for an exception to the condition for operating hours so that they can satisfy DOT's requirements for delivering that material at night, and that's going to impact the residents.

So I want to sum up and just quote a portion that I think that is -- a portion of Collier County code that I think is important in this case. And my position is that you can't adequately condition this proposal that would not adversely affect the public interest. And given that, I think that that's all you really need to recommend to the board a recommendation of denial.

CHAIRMAN STRAIN: Thank you.

MR. HILL: Thank you.

CHAIRMAN STRAIN: Anybody have any questions?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you, sir.

MR. HILL: Thank you.

CHAIRMAN STRAIN: Next speaker, Ray.

MR. BELLOWS: Pam Brown.

MS. BROWN: Good afternoon, Commissioners. My name is Pam Brown. I live in Immokalee, Florida. My family is one of the pioneer families of Immokalee before Immokalee was Immokalee. My great grandfather had the first trading post out at Big Cypress Reservation, and the road he used was the Corkscrew bed road to travel to Fort Myers to trade.

I am here to oppose the mine today. What I've been hearing is compatibility, conservation, care of nature and people. And what I'm hearing from everybody here, of all the people that have spoke, this is not compatible. The roads are not built to take the transportation -- the trucks that are going to be there.

We have a casino in Immokalee. We have schoolkids that go on the roads every day in buses. People go backwards and forth to work. And I'm objecting to the mine completely. Thank you.

CHAIRMAN STRAIN: Thank you.

Next speaker, Ray.

MR. BELLOWS: The last speaker, Peggy Apgar Schmidt.

MS. APGAR SCHMIDT: Is this -- can you hear me?

CHAIRMAN STRAIN: Yes, ma'am.

MS. APGAR SCHMIDT: Okay. Hello. Thank you for allowing me to speak today. My name is Peggy Apgar Schmidt. I lived on Corkscrew Road. My husband bought the property initially near -- across the street from Kevin, who just spoke to you, in 1982, and I joined him there in 1986.

We left the property in 2005. We sold it, and we sold it mainly due to the fact that I was terrified of living there any longer with the trucks from the mining.

So what I want to present to you today is what it's like from a personal point of view from -- I was a landowner then on Corkscrew Road across from the Westwind Mine, what that was actually like. You've heard research; you've heard people make projections; you've heard people talk about environmental. I want to talk to you today about reality, what actually happened.

I also was in Lee County on the DR/GR Advisory Committee when we met about formulating the plan for the DR/GR.

I want you, too, to keep in mind while I'm talking about the words Kevin used when he referred to the lands in the DR/GR which this committee recommended, and Lee County is accepting that we keep mining in that corridor, that part of Lee County, because the impacts are already there. That land is forever compromised.

And as you make your decision, remember that whatever your decision is, if you decide in favor, you run the risk of forever compromising these lands. You don't put dirt back. So this is one person's experience.

Let me see. How do I do slide show on this? I'll just take you through.

CHAIRMAN STRAIN: Push the down arrow. There you go.

MS. APGAR SCHMIDT: I'll just take you through. This is -- see if I can tell you where I -- my home was. This is the Westwind mine, and it's how it currently looks today. I pulled these off.

Originally, the Westwind mine mined this area, then they moved to this area, and they marched across this way, and then they came down and did the front. The pictures I'm showing you today are from 2003, so they were working around in here, blasting and digging around in this area at that point in time.

The house that I lived in was right here. You can see there's a wetland. See the brown area there? We lived next to a fantastic, beautiful wetland. And then this is pine here. There was a little bit of a wetland here. But all of this was pine area that had some inundation of water maybe one, two, occasionally three months of the year. But after the mining you'll see the pictures of what happened.

Also -- let's see. Oh, my house to the road is another piece of data that you'll want to have. That was 832 feet. My house to the blast site was over a mile, 5,628 feet.

I wanted to just talk first about trucking. I was driving down Corkscrew Road. There were trucks behind me. I have hundreds of trucking pictures. I'm only going to bore you with a couple of them today. But I was driving down Corkscrew Road. I was being tailgated by three or four trucks, and -- as I always did, because it's so terrifying to have that many tons of rock on your back bumper -- that I pulled off on the side of the road. I always carried my camera

with me at that point in time. I clicked and caught the picture of this one car, this one last truck going by me. But all of these guys were right on my bumper.

This is sitting in my car at my driveway looking at the entrance to the Westwind mine. And I want you to look at the spacing between the trucks going in and coming out. I believe when I took this picture there were maybe a thousand trucks a day. I would sit at the end of my driveway 10, 15, 20, 25 minutes some days before I would pull out.

I want to tell you just a little bit about me. And I've traveled all over the world. I've hiked, climbed Kilimanjaro, I've hiked in Nepal. My husband and I took an overland trip all through Africa. We've been -- we used to talk about traveling between bombs. We've been in some scary places. I have driven all over the world. I'm one of the few women who had a driver's license in Saudi Arabia, actually, and drove. Talk about terrifying driving.

But this, I was more terrified here to pull out onto that road with that spacing of trucks than I have ever been at any point in my entire life.

I want you just to imagine that you're taking a child to the doctor or, as I had to do last week, take my father to the hospital. What would you do? Would you pull out in front of one of those trucks?

Those are the choices, the reality choices that all of those numbers that people fly by you, this is what it really means is being terrified to drive.

Also in 2003 there were a number of blasts there at the Corkscrew mine. This is -- we were refurbishing our house. And the reason I know that these cracks in the floor were attributable to the blast -- I'm going to show you several pictures of the cracks. Let's see. That's a little shiny. There, that one you can see these cracks here. They all point directly toward the mine, by the way.

And the reason I know is because we were refurbishing at that point in time, and the vacuum cleaner that we were pulling around was one of those garage vacs with the black wheels. Well, the black wheels make spots on white tile. So if any of you have ever gotten down on your hands and knees and cleaned those black spots off of tile, that's what I was doing. And I did it one day, and there they were, back again. At that point I hadn't figured out what they were from.

But the second day I did it, cleaning those black spots, that's when I noticed the tile. And the only thing that had happened between the day before and that day was the blasting at the mine.

Okay. Let me just skip down here. This is the drinking water from my well after the blasting. Would you drink that?

In 1989 I took these pictures out of my dining-room window, this picture. This is, if you'll look at the trees, the exact same spot in 2003 after the 2001 permit to begin to dig. There are changes to the hydroperiod. There are changes to the invasive species.

I'll go down to the next one. This is an overlay of the picture I took in '89 and the picture I took of the exact same area in 2003. It was filled with Brazilian pepper with all sort of invasive species.

Okay. This is the front of my property, what was then my property, or almost to the front, next to Corkscrew Road. It's the pine forest that's there. Normally what happened, in all the years that we drove by this part of our property, that it would be -- have water, maybe some standing water one month, two months, at the most three months. Six, seven months of standing water. So much that the pine trees could no longer stand it, and they just began to die.

Let's see. More invasive species. Here's the subsidence that happens. I think the easiest way, after I talked to -- we hired groundwater modelers, we hired all sorts of people to try and protect our property then, to try and figure out what was going on and why it was going on. As a matter of fact, we subsequently sold the property because we spent so much money on experts trying to help us understand and figure out some way to deal with this.

This is subsidence on the property. And the easiest way to understand the subsidence, how I now understand it is, if you go to the beach and you dig a hole in the sand, then that hole in the sand fills with water. But if you look -- go do this. If you look at the sand around the hole, the water comes out of there and goes into the hole, so the water drops.

So when the water drops, the land subsides and it compacts, and then you have standing water where you didn't have standing water before.

Let's see. This is the result. Too much water. Pine trees have tap roots; most of you probably know that. And so they just begin to die. So the land that we loved was changing before our eyes, all the way back to our house,

from the front of the road, all the way back to the house. And I'm a mile away, right, from the blasting and stuff that's going on.

This, the same kind of thing happened, the hydroperiod changed. If you look at Lee County's records, this is not a mine. This is where a wellfield was. And they overdrew the wellfield for a short period of time. They corrected their mistake, but once you do it, it changes the hydroperiod, and all of that -- these are all the pine trees. They're all dying. This is all in Lee County records.

I wanted to also talk about the light pollution. One of the most wonderful things to do on a rural piece of property is to see the stars. I mean, the animals are wonderful, the birds are wonderful, but to look out at night and see the stars -- do you see the stars? How often? Where do you have to go to see the stars? It's just absolutely wonderful. But if you have light pollution, you will no longer see those stars.

I drove around -- this is 2003, again, and this is the Rinker mine, which was then active. And that's a mile away. This is half a mile away right here. And I wanted to show you the distance. I drove right in here, and this is a picture today, so the structures are no longer there. And then this is right here, a half a mile in where they had the structures with all the lights that you just saw.

So -- let me see. What I'm saying to you, too, is that you can't -- I don't know how it's possible to -- to condition a mine not to have the impacts that I experienced on that property. If you have 1,400 trucks, if you have 1,000 trucks, people are -- it's going to be very difficult for people to maintain their daily kind of life, for people to get to school, to get to work, to get to the hospital, to get to a doctor.

And also truckers, as you know, are paid by the load. They're not paid by a salary so that they can get there whenever they want to get there. So the residents are trying to get to work or wherever it is they're trying to go, and the truckers are trying to go as fast as they possibly can. They're competing goals. Any of you who have ever run a business, you know that once you have competing goals, that you have chaos. You can't have two separate goals that collide, and that's what you have in the road situation. So you have the goals of the residents and the goals of the truckers.

Air quality, one of those I should have pointed out there, you could see the stuff coming out the top of the truck, so air quality is always a question, the change in hydroperiod, the subsidence, the water quality in itself, the damage to the residences, the invasive species, the light pollution.

All of this cannot be conditioned. How can you stop the mine from doing any of that? Just by its very nature, as a heavy industrial use, those are the things that the mine has to do in order to produce its product. It is incompatible with the quiet, peaceful enjoyment of one's own property.

And remember, there are too many unanswered questions, and you can't put the soil back. So I ask you please to consider the reality of the situation, and at this time do not approve this permit or recommend its approval.

Thank you.

CHAIRMAN STRAIN: Are there any questions from the Planning Commission? I have a couple.

MS. APGAR SCHMIDT: Yes.

CHAIRMAN STRAIN: I just want to clear up one of your statements. In the beginning you said that we recommended the DR/GR. We are not Lee County. We are Collier County.

MS. APGAR SCHMIDT: No, not "we," meaning DR -- the advisory committee, the DR/GR Advisory Committee. I'm sorry.

CHAIRMAN STRAIN: Okay. I just want to make sure.

MS. APGAR SCHMIDT: Thank you for clarifying.

CHAIRMAN STRAIN: We're not familiar with the DR/GR that well, so -- we had nothing to do with it. It's a separate county.

MS. APGAR SCHMIDT: Yes.

CHAIRMAN STRAIN: You said that the wellfield was overdrawn, one of the pictures. I'm assuming the hydrologist from Lee County, if he's still here, I want to ask him how that happened, but he's not.

MS. APGAR SCHMIDT: Yeah, and he may not know.

CHAIRMAN STRAIN: Maybe we'll find out from someone.

MS. APGAR SCHMIDT: It's historical, and he'd have to dig through the records. But I can look them up and mail them to you, if you want me to.

CHAIRMAN STRAIN: Well, I'd just like to know how things like that happen. I was just curious, because

if it happens because of water removal and a mine is connected with any kind of water removal, I want to see if there's any correlation there.

MS. APGAR SCHMIDT: And I think there is, which is why I showed you the slide.

CHAIRMAN STRAIN: Okay. Thank you very much, ma'am.

Okay. We're about to take a break, but I want to ask before we leave on break, is -- anybody in the public who has not spoken want to speak when we get back? It doesn't matter if you're registered or not; you can still speak.

(No response.)

CHAIRMAN STRAIN: Okay. So then when we get back, we'll go back into discussions with the applicant and county staff with our list of things that we haven't probably asked yet, or at least my list.

We'll take a break until 2:45. Thank you.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay, everybody, if you'll please take your seats, we're going to resume the meeting.

I'd like to go over some procedural issues for this afternoon. I don't see us finishing with this today, so we'll end up having to continue again. We have to -- we try to be out of here by five minutes to five. That's for some electronic need that is with all the TVs and cameras and stuff, so we try to leave a little early so they can clean up their electronics afterwards.

So with that in mind, what I've decided to do is we're going to go into the questions and answers from the various applicant, their experts, county staff, or anybody else that this board may have questions of.

My intention is to walk through many sheets of considerations that were provided through our package by the planning -- by the county staff. Some of those include the position summary by Lee County and others include things like the Jones Mine issues.

When that gets done, I'm going to afford the opportunity to the applicant to do a rebuttal. The rebuttal that the applicant wants to do may include some new experts in that rebuttal process. Because of that -- and remember I told Mr. Starnes he could present his legal paper prior to rebuttal, but with the new -- with the idea of putting in new testimony, I'm going to defer to after rebuttal, Mr. Starnes can go forward, and then the applicant will be afforded closing comments.

So that will be the scenario at work for the rest of this particular hearing, although, to be honest with you, I doubt if we'll get all that there today. So that -- and in that case, at around 4:30 or so we'll decide logistically how we're going to move forward and take it from there.

Now, with that, I'd first like to ask Mr. Anderson or the applicant's team if they have anything they want to start out with, any new information or any experts they want to put on at this time that we didn't finish with, or we'll just start randomly asking our questions and walking through our points.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: Just a question. You know, it's kind of narrowing down to some different issues. Do you think we could maybe just go issue by issue, and --

CHAIRMAN STRAIN: Well, I was going to -- yeah. I've got -- let's see. There's 8 pages here, there's 10 pages here, there's 2 pages, and I've got a whole book of another 6 pages. So there's 20 or 30 pages of issue by issue. Yeah, we're going to go through them all.

COMMISSIONER SCHIFFER: Can they be grouped, you know. For example, traffic is an issue, sound is an issue.

CHAIRMAN STRAIN: Well, I'm hoping that answering one may answer it for some of the others, but I didn't spend the time of retyping all those 30 pages. I just kind of collected them and said, okay, every one of these issues needs to be addressed, we need to understand where the applicant's position is on it, then we need to decide by the end if those positions are compatible in our words or our understanding of the -- our codes and laws. So does that work?

COMMISSIONER SCHIFFER: Yeah. I mean, it's kind of the same thing.

CHAIRMAN STRAIN: If you have a priority you'd like to start with, Brad, go right ahead, because once -- you know me, once I get into things, I've got a lot here, so you guys should all go first.

COMMISSIONER SCHIFFER: Well, you know, I think, you know, it did break down to some things -- and, again, somebody mentioned, how would you put conditions on this mine? I mean, for example, sound to me is going to be one. Does -- the applicant can describe what kind of expectations -- you can't hear, Kay -- what kind of expectations, what kind of sound, what kind of decibel rating's going to be over the property line on this?

So I don't recall any really acoustical information other than the fact that they have to meet the sound ordinance.

CHAIRMAN STRAIN: Well, I don't know if any member of the applicant's team is knowledgeable in acoustics or sound, noise from a mine. If you are, you might want to address that question. At the same time, if you are familiar with the noise ordinance in Collier County and the one in Lee County, we sure would like to know how they come into play in regards to this, not that Lee County's noise ordinance is ours to enforce, but on the Lee County side of the line, for those residences over there, I'd like to know how their ordinance stands against ours so they know what they're up against.

Okay, sir. Want to identify yourself for the record.

MR. STRAW: Mr. Chairman, Commissioners, my name is Jeffrey Straw. I'm vice president and area manager for Geosonics. We are vibration and acoustic consultants. I am a seismologist. I've got 33 years worth of blasting vibration measurement, evaluation on structures. We also have noise measurements, evaluations. And I also hold a current State of Florida user-of-explosives license.

As noise was the first question, I'm sure there's a whole series that I'll end up answering, you know, later this afternoon. But the items that we can at least address that I have on noise at the moment are, first of all, the standards. Collier County has a measurement at the property line of the receiving land use. So this would be anything that is generated within the mine would have to meet a specific code at the adjacent land use.

And you have residential, commercial; I think you do have industrial. I focus primarily on residential. And you have two time periods. You have what is considered daytime, from 7 a.m. through 10 p.m. You have an allowable level of 60 decibels measured in the A-weighted category. And at night, what is considered nighttime would be 10 p.m. to 7 a.m., and that level drops to 55.

Now, the noise-producing things that are addressed under that ordinance would be any of the on-site activities, the main processing plant towards the center of the operation. I know that it was addressed at the last meeting. There was discussion of the dragline excavates materials, it piles it up, and there was talk of an on-site smaller crusher to reduce the size of that before it was taken to the plant.

Now, I do have some measurements. We've made measurements of those types of machines. I have one at 879 feet. We have 53 and a half decibels, was one. Now, that's unshielded in the open.

CHAIRMAN STRAIN: Ray, could you put the site plan of the mine of the mine on the overhead while he's speaking so we can get an idea of the area that he's -- you could even actually point it out to us. You're talking about the operation that's going to go in the center of the mine; is that correct?

MR. STRAW: No, there's two.

CHAIRMAN STRAIN: Right.

MR. STRAW: There were two things that we talked about. Yeah, that will work. There are two items that were addressed in the applicant's original procedure.

In this mine operation center, there would be crushing, you know, equipment here. There would be either conveyer belt or vehicles that may bring material here depending on where the initial mining starts. As Dennis Rosa explained, it's drilled, it's blasted, it's excavated with a dragline, and material is stacked in what we call a wind row. The material is just piled on top of each other. It allows the water that's in the material to drain back immediately into the mine lake.

And typically at the end of that wind row, if you're digging -- and I'm just going to pick this line right through here. If you're digging from east to west, you're stacking up material. On the other side of that there's a -- typically a front-end loader. That loader puts it into what's considered a portable crusher. That reduces the size of that material, and then that's taken to the processing site for further crushing and grading. So that's a noise source for one operation. That's the one we have the noise at 800 feet from it in the open is about 53-and-a-half decibels.

I don't have anything currently on our previous measurements of operations for here, but we'll certainly dig into our records of what we have from other operations so that we know what those levels are.

But your code would require that whatever the adjacent receiving land use -- and since, you know, we're

typically talking about residents, you'd be measuring that noise at the -- at their property line. That's what the code calls for.

COMMISSIONER SCHIFFER: Okay. So from what you just said, though, we could have a problem on the western property line -- that's a 300-foot buffer -- if you're 800 feet away and you're barely making it into the decibel rating.

MR. STRAW: Well, if you're 800 feet -- if you're 800 feet away, what I'm also saying is that it's an open area. It would be like having the crusher right here in the middle of this with no buffer around it. What you have on the other end of that is that there is that pile. So if you're stacking up this wind row of material from the dragline that's digging and moving towards the west, the loader and the crusher are on the east end of that with that pile of material in front of it, so it would be reflecting that noise back to the east. So those levels to the west on the residents' side are much less.

COMMISSIONER SCHIFFER: Okay.

MR. STRAW: Now, I don't -- we just take it as an activity that's in the open. With the county code as it is, it doesn't make any difference where it is. It's a performance ordinance.

So if they are in excess, and -- there is -- and I don't have the whole ordinance in front of me. There is a procedure for someone to call, you know, and register a complaint about that -- then that noise level has to stop. They either -- and typically that's a crusher. They're not going to run at night. They're going to run from 7 a.m., 8 a.m. for that through whatever the operation hours are. I think we've said five or six o'clock.

COMMISSIONER SCHIFFER: Right. I mean, it's -- the whole plant shuts down at six. Nothing --

MR. STRAW: And that's my -- that's part of my point, but the smaller crusher does too, so --

COMMISSIONER SCHIFFER: Right.

MR. STRAW: -- you're then dealing, instead of 53 and a half, your limit is 60. So you have a significant -- you know, decibels are logarithmic, so there's quite a bit of room there in terms of noise. But even if it would get to the point where there's a concern, the county has the ability to look at that noise. If they're close, then the mining operation, even during daytime hours -- if they approach the 60, they'd have to back off and move that further away or shield it in some manner.

COMMISSIONER SCHIFFER: Okay. And the dragline, what kind of noise is that going to make?

MR. STRAW: Dragline's electric, so -- there's no diesel -- there's no diesel-engine noise for the larger dragline. The only thing you hear is it dump material on the pile. Even for the initial part of the operation, if it's a diesel dragline, there are mufflers and shields that are used on those, so the -- and the noise ordinance then does apply. Those are much quieter, even -- I mean, we've done noise measurements for a lot of the mines out here over the years, and as I recall, even when we were doing stuff at the Harbor' Brothers mine back when it was Harbor Brothers mine, those were in the low -- low 40s to mid 40 decibel.

COMMISSIONER SCHIFFER: Okay. And then the conveyer systems?

MR. STRAW: If there's a conveyer system, again, it's relatively low-level noise. You still have to meet the guidelines of that. It all -- it does depend on proximity. I don't have all of the data on conveyers off the top of my head.

COMMISSIONER SCHIFFER: Okay. And how about the backup beepers; is there a required decibel rating for those?

MR. STRAW: No. Those are mandated by MSHA, and so those are an issue that a mining operator or -- we can't do anything about those, unfortunately. And the only option there is is that after what would be considered dark, MSHA will allow a strobe to be used and most of them that -- are installed. So if it would start earlier in the morning, whatever the startup hours are and it's considered dark, they can use a strobe as opposed to a backup alarm.

COMMISSIONER SCHIFFER: But do you have any data as to how far away -- I mean, is there a required decibel rating at the truck or something that you could say what's a good distance where that drops out of becoming an annoying sound?

MR. STRAW: Not that I'm aware of, because it's -- you know, the standard is the test. I have not done backup alarms, because they're something we can't control. OSHA -- OSHA for construction projects and things like that, Occupational Safety Health Administration, MSHA, Mine Safety Health Administration, they control those, how they're manufactured. There are specifics for those.

COMMISSIONER SCHIFFER: Well, they -- we can't control the noise, but we could control where it's

located.

MR. STRAW: I understand.

COMMISSIONER SCHIFFER: So could we get some data as to where those trucks could have to stay clear of?

MR. STRAW: I can see what we have in our files or --

COMMISSIONER SCHIFFER: Okay.

MR. STRAW: -- you know, ask our clients.

COMMISSIONER SCHIFFER: Okay, I'm done. Thanks.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: Yeah, I have a question. This may be more to county staff, but it's relating to noise. Is the applicant allowed to do anything as long as it's under 60 decibels during the day at the edge of the property line? As long as they don't violate the noise ordinance -- my point is, any loud noise next to a nature preserve, it doesn't have to be 60 decibels before it would make -- to me, it's incompatible. But the guidelines that we're going under, do we have to say, as long as they're under 60 decibels, it doesn't matter that they're next to a nature preserve, it's okay, it's permissible?

MR. BELLOWS: Correct. The noise ordinance doesn't have any specific provisions about impacting a preserve area or wildlife, so there's -- as long as it's -- code enforcement or somebody's called in to monitor the sound, as long as it doesn't exceed those noise levels --

COMMISSIONER MIDNEY: I know it's not illegal, but in terms of, like, the job of this commission, which is to decide compatibility or incompatibility, do we have to say, well, it's only 59 decibels, therefore, it's compatible, or can we say, based upon the prior use neighboring, we decide that even if it's less than the noise ordinance, we don't think it's compatible. Do we have that ability?

MR. BELLOWS: Yes, you have that ability. It's a -- compatibility is somewhat subjective to a certain extent, but truly there are code requirements and you should be making your decisions based on code requirements, but there are those subjective criteria that you can apply, and the Planning Commission has typically applied in the past, when it comes to compatibility.

COMMISSIONER MIDNEY: Because, frankly, I don't think that they're going to be breaking the noise ordinance, but yet I still have serious doubts as to whether they'll be compatible with the neighbors and with the nature preserve.

CHAIRMAN STRAIN: Has -- the decibel levels that you were talking about, were you considering those at the commercial level or the residential level?

MR. STRAW: Those are all residential -- the limits that I addressed, the 60 and 55 -- and I think, Commissioner, you had asked about Lee County's. Lee County's are 66 and 55 in their current ordinance, and those are measured for residential.

CHAIRMAN STRAIN: Okay. Any other questions from this gentleman?

I have a question of the County Attorney's Office. If a Lee County resident -- and I guess it's called Wild Cat Farms or whatever -- had a complaint about noise and they called it in, would they call it into their Code Enforcement Board or our Code Enforcement Board? And if they called into ours, would ours just tell them, you're a Lee County resident; call your Code Enforcement Board?

MS. ASHTON-CICKO: It should be the county's Code Enforcement Board that would be looking into whether or not the noise violation occurs. Now, whether or not they call Lee and Lee calls Collier or how that gets to Collier County --

CHAIRMAN STRAIN: Well, I just would want to make sure that if something were to occur out there and the residents call to file a complaint, they just didn't get told, well, you're in Lee County; don't call us, call yours. And I hate to see that go round and round in circles and nobody able to get anywhere.

So you're saying that our Code Enforcement Board would have jurisdiction to enforce code complaints in Lee County from this mine?

MS. ASHTON-CICKO: It would probably require coordination from both, because I think the county would look at the noise that's on the county line, I would think. If you have anything to add, Ray, I don't know. But they'd probably be looking at it at the county line. I'm not really sure.

CHAIRMAN STRAIN: Well, I think we have another issue then, because say someone who has a -- say the

seismographs are put on someone's property, as they may be, that's outside our county. If one isn't put there or isn't monitored correctly, who do they complain to? Say it's not noise, say it's another issue but it's still emanating from this mine's operation, how are the complaints handled? Do we have any idea?

MS. ASHTON-CICKO: Well, I can't tell you how it's currently handled. I can tell you the way it should be handled, which is the county would go out and look at the -- to determine if there's a violation.

CHAIRMAN STRAIN: Regardless of jurisdiction?

MS. ASHTON-CICKO: I'll let Steve Williams address that.

MR. WILLIAMS: Steve Williams, assistant Collier County attorney and also the attorney for the Collier County Code Enforcement Board.

Again, the property is in Collier County. The enforcement thereof would have to take place in Collier County. Now, whether some readings or other things would have to be done outside of Lee County, such as whether it's with the noise meter, seismograph or other place, it wouldn't matter where they would have to be done. But the enforcement would be here, and the enforcement would be with the Collier County Code Enforcement.

CHAIRMAN STRAIN: Okay. So any violations that -- if this were to be approved under various stipulations, any violations of those stipulations that occur in the Lee County side of the property line and called in by Lee County residents would be responded to by our Code Enforcement Board for actions of this mine?

MR. WILLIAMS: The violation for it to occur in Lee County would have to have property located in Lee County, and this is all located in Collier County. Now, they may hear the noise in Lee County, but the violation occurred in Collier County.

CHAIRMAN STRAIN: Right.

MR. WILLIAMS: We would keep it here.

CHAIRMAN STRAIN: But the complaint would be from Lee County. We would respond to a Lee County complaint on a violation from a CU in Collier County?

MR. WILLIAMS: Gotcha.

CHAIRMAN STRAIN: Right?

MR. WILLIAMS: Right.

CHAIRMAN STRAIN: Don't get me. I just want to make sure you're telling us you're -- okay.

MR. WILLIAMS: No. It would -- this mine and all code enforcement actions stemming therefrom would be in Collier County. That's as clear as I can attempt to make it.

CHAIRMAN STRAIN: Okay. Thank you, Steve. Appreciate it.

You said something about the wind row being on the west side, therefore, it would provide a buffer to the portable crusher. So you're saying that all the wind rows will always be constructed on the west side?

MR. STRAW: No, I just used -- I've used that as an example. The issue is in dealing with mining operations. And the initial -- I think the initial presentation was that work would start in the northern end and progress from the east towards the west. As that occurs, the dragline is always in front putting that material back, because you're working from this direction towards this direction. And so there is -- there is a pile of material established, and from the other side of that is where the load-out is completed.

CHAIRMAN STRAIN: Okay. But you -- the way you just articulated that, you're pointing to the dragline starting in the east and moving to the west and it putting its material behind it. Well, that's where -- the area they just dug.

MR. STRAW: It's putting it on the shore immediately adjacent so --

CHAIRMAN STRAIN: So it would be to the south of the dig?

MR. STRAW: It digs from the front, yes. In that example, they would dig, hoist, swing --

CHAIRMAN STRAIN: To the south.

MR. STRAW: -- to the east, pile it on the south side of the area that they've just -- they're excavating, and then on the far end of that is typically where material is taken and moved back towards the central processing.

CHAIRMAN STRAIN: So the idea of a wind row buffering any noise from a portable crusher, under that scenario, doesn't really work from the west side.

MR. STRAW: It works for people to the west because that wind row -- the end of the wind row on the east is where that portable crusher is, so that anyone to the west has that big buffer and that big reflective surface which will then reflect noise back to the east. If that wind row is turned or that mining operation turns a different direction, then

noise is something that, you know, we will have to address and have to pay attention to and, certainly, one, it goes back to the code, but looking at a lot of the things that this board has talked about and that the applicant's talked about in best-management practices, we certainly don't want, you know, the neighbors to have to deal with noise the entire time. We're going to certainly buffer that as best possible.

CHAIRMAN STRAIN: Well, your determination or your statements of best possible are one thing, but you're not the guy that's going to be on that mine operating it, and in all likelihood it may be someone else who actually leases the ability to dig that mine. And so the language has to be placed, if it were to go, in such a manner that all that stuff's covered.

MR. STRAW: I understand that.

CHAIRMAN STRAIN: So in the end I'm going to need language to cover the proximity where that crusher would go --

MR. STRAW: Okay.

CHAIRMAN STRAIN: -- and how the wind rows would -- well, I guess it isn't a matter of the wind rows. It's how close to the property line will the crusher get --

MR. STRAW: Okay.

CHAIRMAN STRAIN: -- and what kind of buffers are going to be relied upon around that crusher at all times, whether they be portable or whether they be wind rows.

And that brings me into another immediate question. Do you have any idea how close that crusher will have to get to the property line?

MR. STRAW: That one I can't tell you. That one I don't know at this point.

CHAIRMAN STRAIN: Do you have any idea the farthest it could stay away and still be functional?

MR. STRAW: Well, 879 feet, from the measurement that I've got here, we're well within compliance with the Collier County code. I mean, as using that as a baseline, at least 800 foot. It may be able to come closer.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Another question, yeah.

The way you're describing -- you know, I have this illusion, and the guy who thought I was a woman agreed with me. So that might not be a positive.

MR. STRAW: I won't make that mistake.

COMMISSIONER SCHIFFER: But that might not be powerful evidence.

Wouldn't it be better to start, like, on the north/south on the Lee County line? Because here's -- the illusion I have is that if we can break the ground away from the people, the concept of vibration getting to them would become lesser and lesser and lesser every day.

MR. STRAW: That takes us into the question and the issue of blasting. And the -- there's a couple of aspects there, and I know one question was asked last week. The first is that by starting blasting in the eastern end of that initial cut, as I've kind of indicated over the past couple of times, you have the ability to blast while you're farther away. Also, in the key cut you don't have material that is broken, so the first few blasts that are done at that site typically have higher vibration levels. We want to do those further away. The spacing is closer together to allow the dragline to dig.

Once that dragline gets to depth in that area, whatever that is -- and that's the more shallow section of the lake area. As that gets done, then you have open space for the blast itself. As those individual rows break the rock, they relieve and direct energy back -- you know, into the lake that's excavated.

COMMISSIONER SCHIFFER: Right.

MR. STRAW: The problem with starting on the west side is you're doing all that testing, all of that initial key cut at the closest point to the adjacent neighbors, which would not be my recommendation.

It may be at some point that there is opportunity to do that, but the initial key cut would be done further to maintain one lower level initially.

Now, that brings up the question is -- does the lake create a buffer? It does create a buffer once it started to be opened up. In other words, if you get a two or three hundred foot wide excavation through there, yes, that does create a buffer. It will reduce ground vibration. But having a -- having an initial excavation that's 60, 70, 80 feet wide is not going to be sufficient as a buffer.

COMMISSIONER SCHIFFER: Could you start like you want and then head to the western part of the

property line, like you originally are, and then from there turn south and -- because I know what you're saying. You've really got to be kind of nasty to get it going, and you -- to get the depth you want. But once you get that depth, can you turn the lake south and create that buffer then?

MR. STRAW: I'd have to throw that one to Mr. Rosa, because Mr. Rosa is the one that has laid out the mining plan. I don't know -- I don't necessarily have an issue with it, but that's a question better asked of Dennis.

MR. ROSA: The answer's yes.

COMMISSIONER SCHIFFER: You could do that?

MR. ROSA: Yeah.

COMMISSIONER SCHIFFER: Because the intent -- here's the other thing, I think, that works for that is, I think the lake will become a great buffer for ground vibration, and then also you'll be working away from the people. It's not like you start off in a distance and are marching towards them. It's -- you're going to actually be marching away from them.

MR. ROSA: I agree with that. I think we have to start like Jeff has just told you, though, to --

COMMISSIONER SCHIFFER: And then turn.

MR. ROSA: And then make a turn, and then we have to reorient the crusher, to answer the chairman's question, which is we would have to then back it in behind that pile and --

COMMISSIONER SCHIFFER: Right.

MR. ROSA: Instead of being on the end of the pile, we'd be on the face of the pile.

COMMISSIONER SCHIFFER: And you could also be on the other side of the pile, couldn't you? I mean, essentially --

MR. ROSA: That's what I mean. We'd be on the --

COMMISSIONER SCHIFFER: So that would even be better yet.

MR. ROSA: We'd be on the east side of the pile, yeah.

COMMISSIONER SCHIFFER: Right. Which is -- the pile is actually buffering the crusher from the neighbors a little bit.

MR. ROSA: That's correct.

COMMISSIONER SCHIFFER: Which is even better. Good.

MR. ROSA: Yes.

COMMISSIONER SCHIFFER: Yeah. I'm -- I think I'm done. If we do put in the littoral zones, you've heard some concerns about coming about 50 feet with a slight slope on some of these edges. The western edge would probably be residential property lots in the way future, so that littoral zone would be best on that edge. Wouldn't that also help diminish the activity along the neighbors there? I mean, that would be an additional distance back from the heavy depth and everything, the heavy blasting?

MR. ROSA: Yeah. I would envision the littoral shelves being back in that 300-foot buffer, from the edge of the lake back to the west.

COMMISSIONER SCHIFFER: Okay. Well, I guess we'll negotiate that, but --

MR. ROSA: Okay.

COMMISSIONER SCHIFFER: Okay. Thank you.

MR. ROSA: Yes, sir.

CHAIRMAN STRAIN: Question on the crusher, the portable crusher. I'm assuming they're thought to be diesel?

MR. ROSA: Yes, they will be.

CHAIRMAN STRAIN: Do they make them electric?

MR. ROSA: Yes.

CHAIRMAN STRAIN: Since your dragline is electric, what would be the downside of using an electric crusher?

MR. ROSA: Just another cord. Yeah, we can do that.

CHAIRMAN STRAIN: It's another cord or a fuel truck, one or the other.

MR. ROSA: Yeah, that's right.

CHAIRMAN STRAIN: Okay. Wanted to understand that. Thank you.

Anybody else have any?

COMMISSIONER SCHIFFER: I was going to say, don't bring a generator out there. I mean, another cord, you know --

MR. ROSA: That would be the wrong thing, yeah.

COMMISSIONER BROUGHAM: Mark, as long as we have the general in charge of blasting up there, I have a few.

CHAIRMAN STRAIN: Sure.

COMMISSIONER BROUGHAM: No, no. Mr. Rosa, you're mining operations, I think, right? You're the man I want --

MR. ROSA: Okay.

COMMISSIONER BROUGHAM: -- because you answered the questions the last time.

I think you told me that -- or told us that on average you would be blasting twice a week, on average?

MR. ROSA: That's correct.

COMMISSIONER BROUGHAM: Is there any way to tell us about what the peak would be? Would it be one a day, perhaps, or do you see going to that extent?

MR. ROSA: No. I think we would do it twice a week. We'd pick two days and try to stick with those two days as much as we could so it was predictable to the residents.

COMMISSIONER BROUGHAM: So that's a little bit different than an average. I mean, that's a frequency.

MR. ROSA: Yeah. The only thing we don't know is that -- we can't blast in bad weather. I mean, if there's a lightning storm, you don't want to be fooling around with explosives, so you may have to delay that to another day.

COMMISSIONER BROUGHAM: But if I understand you correctly, you're saying your intent would be to blast no more than twice a week.

MR. ROSA: Correct.

COMMISSIONER BROUGHAM: All right. Do you contemplate, or is it standard practice, to provide any kind of notice to property owners as to when you're going to blast?

MR. ROSA: There is -- several of the mines do that. They have a website. And I think one of the mines even makes telephone calls to the -- to a designated person and notifies them.

COMMISSIONER BROUGHAM: If this mine were approved, would that be your practice, one or the other or both?

MR. ROSA: We can make it that practice, yes.

COMMISSIONER BROUGHAM: I know you could. Would you?

MR. ROSA: We'll make it a condition.

COMMISSIONER BROUGHAM: Okay. We discussed briefly the last time as far as damage reporting.

MR. ROSA: Yes.

COMMISSIONER BROUGHAM: And you would put out a preblast -- you would do a preblast survey --

MR. ROSA: Yes.

COMMISSIONER BROUGHAM: -- and a post-blast survey, and if there were damage that was noticed by a property owner after you gave preblast -- or did your preblast survey and there was damage and an owner determined it was caused by a blast, there's a process that would be defined in which they could report it to you?

MR. ROSA: Yes.

COMMISSIONER BROUGHAM: And I'm going back to the question earlier that Mr. Strain asked in another context, but most likely the property owner that could have damage from a blast would be in Lee County.

MR. ROSA: That's correct.

COMMISSIONER BROUGHAM: In all probability?

MR. ROSA: More than likely, yes.

COMMISSIONER BROUGHAM: So then going to your question, Mark, it also enters into my mind, how -- how do both counties coordinate with this mine operator as far as what the process is, who has jurisdiction, who comes to inspect.

MR. ROSA: First of all, the state fire marshal has jurisdiction, so it's not a county function, so we would --

COMMISSIONER BROUGHAM: Okay.

MR. ROSA: We'd report the damage to the state fire marshal, and he would come back and investigate it.

COMMISSIONER BROUGHAM: So a homeowner --

MR. ROSA: Excuse me. And we would have our blasting fellow here, Jeff, come down and do a post-blast survey.

COMMISSIONER BROUGHAM: Okay. So a property owner would -- the process would be to contact the state fire marshal?

MR. ROSA: He would contact us, and we would contact the state fire marshal and provide him with a copy of our notice to the state fire marshal.

COMMISSIONER BROUGHAM: Okay. So the counties are really out of it then. There's no jurisdictional --

MR. ROSA: Well, if it's -- a Collier County rule may be that we have to notify Collier County also, and Jeff would probably know better than me. But I think the county has to be notified also.

CHAIRMAN STRAIN: Condition to a conditional use, we can stipulate about anything we deem necessary.

COMMISSIONER BROUGHAM: That the county would have to be involved in that process.

CHAIRMAN STRAIN: Right. And then that becomes part of the process that the applicant either agrees to or doesn't, and if -- depending on their outcome of that response, that's how we decide what we want to do, so --

MR. ROSA: I think Collier County almost has to have notification so that you can see that we're complying with the conditions of the permit.

COMMISSIONER BROUGHAM: Okay. Thank you.

CHAIRMAN STRAIN: Okay. Melissa?

COMMISSIONER AHERN: Just a follow-up on your statement of blasting twice a week. On whatever days those happen to be, is that blasting pretty much all day as much as you can get in in that day, or does it vary?

MR. ROSA: No. It would be a specific area that would be blasted depending on the production level and the sales volume of the mine. So if we had to blast an acre, let's say, we would try to divide it up where it was all -- it all happened on two days, probably. And what we're trying to do is get a volume of material that parallels the amount of material being sold, and so it would depend on the total amount that needed to be blasted to keep up with production. If we were low on sales volume, the number would be low. We wouldn't be blasting as much, but it would be no more than two times a week.

COMMISSIONER AHERN: So even if sales volume increased drastically, it's still twice a week?

MR. ROSA: Still twice a week.

COMMISSIONER AHERN: Okay. Thank you.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Hold on. Let me --

MR. ROSA: Was that your question, how much will we blast in a given day?

COMMISSIONER AHERN: Yes.

MR. ROSA: Oh, okay. Again, that's -- it goes back to volume again, but it could be two or three times.

COMMISSIONER AHERN: Oh, yeah, I understood. Thank you.

COMMISSIONER SCHIFFER: Just a curious question. How fast is a rock -- once you pull it out of the ground, how quick would it be on a truck? It has to dry, it has to crush.

MR. ROSA: It has to dry out before you can even crush it, so it's probably going to be there 30 days.

COMMISSIONER SCHIFFER: Okay, thank you.

CHAIRMAN STRAIN: Diane, did you have something?

COMMISSIONER EBERT: Well, in the blasting, you said two days a week. But it's not just two times a week, just two separate blasts. It's several in the two days?

MR. ROSA: It could be.

COMMISSIONER BROUGHAM: It could be.

COMMISSIONER EBERT: Okay. It makes a difference. Thank you.

CHAIRMAN STRAIN: Okay. Anybody else of these two gentlemen? They're going to be bouncing up here, I think, a bit off and on, because we're going to have random questions.

COMMISSIONER BROUGHAM: You might stand in front.

CHAIRMAN STRAIN: I may ask you to come back up, so --

MR. ROSA: Stand out in front here.

CHAIRMAN STRAIN: Thank you.

I have -- do you have any other questions you want to get into, Brad? I mean, I've got a lot of questions, but I don't know what your priorities are, so --

COMMISSIONER SCHIFFER: Yeah. I think, you know -- I mean, that definitely covers, you know, the sound travel and maybe even the progression of mining.

The other question I really have is the traffic, is the ability to bring trucks out on the highways. I'm sure that's something you would get to, but is -- can we discuss it now, or --

CHAIRMAN STRAIN: Yeah, sure.

COMMISSIONER SCHIFFER: Okay. John, can you come up then.

COMMISSIONER BROUGHAM: And, Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER BROUGHAM: Before you get into yours, I do have two or three others.

CHAIRMAN STRAIN: Oh, no. We're going to keep going until we -- mine are more of point-by-point issues that I want to get answers to so that we can make a decision based on factual summary answers basically, so --

COMMISSIONER SCHIFFER: Okay. John -- and it's going to have to go to both roads, but I can easily see on 82 on the south side how you can build a decel lane and how you could build an accel lane --

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER SCHIFFER: -- accelerate later. How do you do it on the westbound lane on 82?

MR. PODCZERWINSKY: On the -- I'm sorry. The westbound lane on 82. You're asking how we would construct a turn lane?

COMMISSIONER SCHIFFER: Yeah. What would the design of lanes be such that trucks can get out of there and get up to speed before they get into 82 traffic?

MR. PODCZERWINSKY: You're asking about an acceleration lane or a deceleration lane? One to speed up or one to slow down?

COMMISSIONER SCHIFFER: I mean, I think the decel, we all know, you just build a lane or move the other lane out and you let people get in it. The accel lane, I mean, what would be the best example of that, something like Veterans Park has or --

MR. PODCZERWINSKY: Honestly, I don't really have a good answer for that one. Index 304 from FDOT gives us definitions for turn-lane deceleration lane lengths. It doesn't really give us much for acceleration lanes. That's going to -- going to sort of be based on the individual engineering reports. We're going to take a look at the operational characteristics of how many -- you know, how many vehicles are using the driveway before we approve that on an SDP.

COMMISSIONER SCHIFFER: But, I mean, it's essentially going to be coming from a dead stop out onto 82, this big elephant --

MR. PODCZERWINSKY: I understand.

COMMISSIONER SCHIFFER: -- with tons of weight on it. How can we get that up to a proper speed before it merges with the traffic on 82?

MR. PODCZERWINSKY: Typically we're going to size those relatively consistently with the deceleration lanes. It's the same thing when you're coming from a certain speed, 45 miles an hour, we'll call it, down to zero, and from zero up to 45. It's going to be relatively the same length, maybe a little bit longer for the acceleration lane.

COMMISSIONER MIDNEY: But for a left-hand turn?

MR. PODCZERWINSKY: For a left-hand turn, yes, sir.

COMMISSIONER SCHIFFER: Okay. So basically we're going to add a double lane in that area, move the 82 traffic to the northern side of the road, and then use the two additional lanes to slow the trucks down and speed them up?

MR. PODCZERWINSKY: Two lanes for a deceleration, is that what you're asking?

COMMISSIONER SCHIFFER: No. I'm just trying to picture the design of what would be a safe way to have these trucks enter these roads. Obviously, it would be the opposite on Corkscrew.

MR. PODCZERWINSKY: I'm turning -- and with reference to the applicant's traffic engineer, have you -- has there been any design work done for acceleration lanes?

MR. TALONE: Ron Talone with David Plummer & Associates. I'm not a design engineer, I want to make that clear. But we're talking about a total of three lanes in that you'd have a left-turn decel lane going westbound.

That turns into the site. And you'd continue that lane for some distance quantified in design based on proper engineering practice that would be the accel lane for trucks that make a left out onto 82, and it gives them an appropriate distance to get up to speed and, meanwhile, the traffic that wants to go past the left-turning vehicle, or the vehicle that just turned left onto 82, they will have a passing lane on the north side of the road to clear both of those movements.

COMMISSIONER SCHIFFER: So -- but we'll really have four lanes because you'll be doing decel and accel.

MR. TALONE: Well, you'd have an eastbound right-turn lane, correct. But in terms of -- but there's not going to be two separate lanes to handle the left-in and left-out. It will end up being -- you'll start off with the lane that's used for the left turns, and they go in, and then the left turns out will -- that lane would continue, and they'd go on that and use that as the accel.

COMMISSIONER SCHIFFER: So the only frightening thing would be the truck crossing that eastbound lane to get into the accel lane because that's -- if there's a lot of traffic on that road, that will be a dangerous thing. Because they're not moving fast, are they? I mean, what are they, zero to 60 in about a week and a half or --

MR. TALONE: I don't have the specific information at hand, but I can assure you it would be properly designed and reviewed, and it wouldn't be approved by the county or the state until it meets proper specifications.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN STRAIN: Don't go away. If you believe it can be properly designed and built and we could better understand it, can you bring a sketch of one to the next meeting?

MR. TALONE: Yes, we can do that.

CHAIRMAN STRAIN: Thank you. And maybe have John take a look at it or his department before -- mostly I'm concerned about the length of the accel lane on the left-out because anybody driving 82 going west, if they have to come up behind one of those big trucks going too slow and they don't catch it in time, they're going to run right up the back of that truck, and that is not a condition we want to encourage. So I think that would be good to see.

Mr. Midney?

COMMISSIONER MIDNEY: Yeah. I have a question about Corkscrew Road, I guess, mainly for John. I know Corkscrew Road is not failing, it's not that heavily traveled, and so adding these trucks onto Corkscrew Road wouldn't make the road fail from a volume standpoint.

MR. PODCZERWINSKY: Yes, sir, that's correct.

COMMISSIONER MIDNEY: But what concerns me is the kind of vehicle that it is, that the road is not made for it. The decision of this board, can we only take into account the volume and whether the road is failing, or can we also take into consideration that this volume of this particular type of truck is not really suited for this quality of road that doesn't have the shoulders and so forth?

MR. PODCZERWINSKY: The answer that I can give you is that staff is limited to the review that we are tasked with through the Growth Management Plan, which would be for capacity.

If it comes down to a question of compatibility of traffic between the trucks and the existing vehicles that are on the road, perhaps based on roadway width, the existing roadway width, that's really going to be a decision that this -- that lies with this board and with the Board of County Commissioners based on your recommendation.

It's not one of our Growth Management Plan initiatives to review for that, unfortunately. And it's -- you know, from a staff level, we're here to give you the technical review of do we have capacity for these vehicles. The answer to that, yes, we do have capacity for them in the concurrency, consistency view of the world.

When it comes to whether or not it's realistic to expect those vehicles to fit on the roadway with the current conditions that are out there, if the roadway has been designed and constructed to the current design standards that FDOT has out there, yes. This is older road, though. We -- as it was pointed out earlier, we are lacking shoulders on this road, and that is a concern, so --

COMMISSIONER MIDNEY: Yeah. I think maybe that might be a topic for maybe a future LDC to look at that, not only look at the volume but the quality of the vehicle and, you know, the quality of the road, but we can take that into account --

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER MIDNEY: -- even though it's not concurrency.

MR. PODCZERWINSKY: That's correct.

COMMISSIONER MIDNEY: Thank you.

CHAIRMAN STRAIN: John, you said FDOT just now in regards to the construction of that road.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: It's a state road, I mean Corkscrew?

MR. PODCZERWINSKY: Corkscrew is not a state road, but we would follow state recommendations on the design standards.

CHAIRMAN STRAIN: Okay. And you said it was an old road.

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: Were the design standards done by the FDOT at the time that road was built consistent with the ability for that road to manage the trucks that are being proposed?

MR. PODCZERWINSKY: Commissioner Strain, you have a very good question and, unfortunately, that was before my time here, and I'm not well-informed enough to give you a good answer on that.

CHAIRMAN STRAIN: Could you be by next meeting?

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: We have another question for next meeting.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: John, I happened to be out there yesterday, and I happened to be standing at the end of Collier County on Corkscrew Road and the beginning of Lee County. Collier County has gone out, put a lot of nice arrows out there. It looked great. I see where people have gone through already going eastbound. But it's supposed to be a 10-mile-an-hour curve.

I happened to be there around four o'clock. There were trucks and cars. If they were doing 25, 30 miles an hour, they had slowed down, they figure. No one is -- and it was just -- the road is so narrow. I think that -- I had concerns with that because you could see where they've added a little blacktop where the shoulders and -- and there is nothing on the sides.

I think the width of the road and, you're right, probably the depth of the road of, you know, the underlying crushed rock and everything -- it brought home some interesting feelings out there when you're standing there watching these trucks and everything trying to go around this 10-mile-an-hour curve at 30.

MR. PODCZERWINSKY: I can certainly understand. Response --

CHAIRMAN STRAIN: Go ahead. Phil?

COMMISSIONER BROUGHAM: Yeah, I have one for the applicant, whoever can talk to transportation or traffic.

CHAIRMAN STRAIN: Yeah. And I'm going to have more of you, John, before -- when we get done with Phil's questions, so --

COMMISSIONER BROUGHAM: So I'll ask the question, and the right expert can come up.

We've heard a lot of, I won't call them complaints, but a lot of testimony from a lot of different people over the -- these two meetings concerning the condition of Corkscrew Road, the design of Corkscrew Road, the existing traffic on Corkscrew -- that's hard to say -- Road.

And in looking at your -- the plan that I have in front of me here, you show potential entrances both to Corkscrew and State Road 82, potential.

MR. TALONE: Yes, sir.

COMMISSIONER BROUGHAM: And I think I've read it correctly that you projected 70 percent of the output of the mine would be directed to Lee County and that 60 percent of that would be traveling over State Road 82. I think I've got those correct.

MR. TALONE: That's correct.

COMMISSIONER BROUGHAM: So if I look at all of those statements and measured them up against the complaints and the observations about Corkscrew, why would you use Corkscrew at all?

MR. TALONE: Well, the site plan was -- I can't speak to exactly why the site plan was developed as it was. But we provided access to be able to use both roads. But we -- as I testified previously during my presentation, we had estimated that our markets will be primarily to the north and northwest utilizing State Road 82, and that's why we show the higher volume on that road.

There may be some small percentage that would utilize Corkscrew Road, and we felt that there should be access provided for that so that those trucks wouldn't have to come out on 82 and circle back through the intersection of 82 and Corkscrew.

COMMISSIONER BROUGHAM: If most your -- and I heard someone state that this morning, I don't remember who. There's a high probability a lot of this rock is going to be trying to access I-75 either north or south. Nobody can predict exactly where the customers are going to be. And I also heard this morning that Corkscrew Road is probably -- if you're going to go -- want to get to I-75 quickly, Corkscrew's going to cut off some miles, particularly if you're going southbound.

It just seems to me that there's a lot of issues associated with utilization of Corkscrew Road one way or the other that could possibly be avoided here.

MR. TALONE: Well, as far as the fact that we did show a fairly small percent on Corkscrew, as we -- as I mentioned in my original testimony, we looked primarily at the markets. And as has been testified on numerous occasions by many of the presenters over the past two days of hearing, Lee County's concentrated their mines off of Alico Road just north of Corkscrew. So we figure those are our competitors. They would dominate the markets in that area, and that's why we felt our markets would be more to the north and northwest, and that's why we felt there'd be a limited amount of traffic on Corkscrew. And as it is, though, we are proposing to have access to both Corkscrew and State Road 82.

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: Okay. Karen, and then Paul.

COMMISSIONER HOMIAK: Do you have approval for these modifications to State Road 82 from FDOT?

MR. TALONE: No. We would have to get the appropriate connection permits with the Florida DOT.

COMMISSIONER HOMIAK: Okay.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: I'm just questioning whether a difference of 10 miles between the Alico mines and this mine would make that much of a difference. If somebody wanted rock, would they get it all from the Alico mines, or would some of it come from here? So that's why I'm questioning whether all the stuff to the south would not be done by this mine.

MR. TALONE: No. I wouldn't put it in an absolute term that all of it would. We just came to the conclusion that given the locations of our competitors, which are primarily south of us in Collier County and southwest of us in Lee County, that there would be a tendency for those mines to dominate those markets. And so we felt our markets would be primarily to the north and northwest.

COMMISSIONER MIDNEY: I still think, though, that the proximity of -- to I-75, being much closer through Corkscrew Road, would be something that drivers would probably take into account, and also the fact that it would probably be a lot easier to make a turn onto Corkscrew Road than it would be to make a turn, especially a left turn, onto State Route 82 because it's such a busy road, such a death trap.

CHAIRMAN STRAIN: Any other questions?

(No response.)

CHAIRMAN STRAIN: Thank you, sir. John?

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: I have some issues I found in the county records involving additional comments that you provided during the review. I'd like to know how they were resolved.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: 7/29/10 review comments. Project impacts are anticipated to create a deficiency in SR82. County staff recommends inclusion of a commitment to provide proportional-share payment for the following improvements: SR82 widening identified in the ongoing PD&E study by FDOT, including contribution of right-of-way frontage. How has that been resolved?

MR. PODCZERWINSKY: That's been resolved by the applicant agreeing to provide, instead of additional right-of-way for State Road 82, additional water management in the amount of .67 acre feet within their development. It doesn't mean .67 acres. It is -- I'm sorry -- was it .67 or -- I can't recall the exact number -- 67? Okay. Thank you, guys. But what that's meant to do is to accommodate FDOT's widening within their existing right-of-way without having to -- you know, to purchase additional right-of-way to handle their water-management concerns. This

development will be handling some of their water management along that frontage on FDOT's behalf. They'll be able to handle that by way of easement within their property.

CHAIRMAN STRAIN: So -- which means they're basically going to let the runoff run into one of the lakes they're digging?

MR. PODCZERWINSKY: That's correct. I'm sure -- and I would have to -- I can't say for sure that's correct, but I'm sure it would have to have some form of treatment before it runs into their water-management system, the same water standards -- water-quality standards that they would be required to meet, so --

CHAIRMAN STRAIN: Okay. And you felt that that provision was an adequate offset to a proportionate share for SR82 widening?

MR. PODCZERWINSKY: Yes, sir. That was a recommendation from FDOT after discussions with them.

CHAIRMAN STRAIN: How do you evaluate -- did someone do an evaluation of that value of that drainage area that they were providing versus the value of the right-of-way that would be needed or the widening?

MR. PODCZERWINSKY: It's a question I would rather defer to FDOT's design people. I don't think we would have that -- I could get that information for you by the next meeting, but that was based on their recommendation. As I said, that this is now land that they do not have to purchase to accommodate their right-of-way, so --

CHAIRMAN STRAIN: Okay. And how do you -- just so I understand it, the land to the north is theirs -- they've got land all along 82 that's not part of the mine.

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: But all that land along 82 they've already indicated they may come in and be looking for a mine permit sometime in the future. So, theoretically, they've got a lot of water available to take our water.

MR. PODCZERWINSKY: If that's true, it's, unfortunately, something I couldn't review as part of this application.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: I can't take that into account what they -- what the applicant could do in the future with those lands fronting State Road 82.

CHAIRMAN STRAIN: Okay. The evaluation of that would be important compared to the evaluation of what you originally asked for.

The second question was, provide -- or statement was, provided water management along SR82 for use by FDOT SR82 widening project. Now, you listed three things. You listed contribute to the widening, then provide water management, which is what they did to contribute to the widening, and then contribution of proportional share -- proportionate-share payment towards the SR29 and SR82 intersection. So there were three things they were asked to do, but the first two both have seem to have gone away for just the revision of the water management; is that true?

MR. PODCZERWINSKY: That's true.

CHAIRMAN STRAIN: Why did you ask for two things and settle for one?

MR. PODCZERWINSKY: Basically a point of negotiation, sir, that we were working through negotiations. Those were what we were directed to put on the table to discuss with the applicant.

Upon -- after discussions with our division administrator, the ultimate answer was the mitigation requirements that we have on the conditions today. That was what the final agreement was that resulted in a -- I'll say a fairly balanced equation for us, based on FDOT's recommendation back to us, again.

CHAIRMAN STRAIN: So there was no proportionate-share payment towards the SR29 and SR82 intersection?

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: So all this went away with that water-management land that was really just a second stipulation to begin with?

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: Okay. The following item was not appropriately addressed in the response. This is from you. Provide a survey of road and right-of-way conditions for a radius of 2 miles at each project access. Include at least one cross-section of both SR82 and Corkscrew Road within the study area, demonstrating the thickness of the paving and base for each road. This lends to the question we asked earlier about the ability of Corkscrew Road to

handle trucks. Did you not get that information?

MR. PODCZERWINSKY: I can't recall from that review if I received that information or not. In any case, the one-dollar-per-truck contribution that we've discussed, the quote-unquote, "buck-a-truck contribution" that the developer would be making to us will handle both capacity and maintenance issues. That's what that's designed for. And it was -- when we came to the agreement on the buck-a-truck finality, what we found was that there's no further need for us to assess what's out there at the moment, that they'll be paying into that maintenance for us to work on that road in the future anyway.

So we found it was not worth trying to pick out which pothole existed today and which will exist tomorrow, because tomorrow it will need to be fixed anyway.

CHAIRMAN STRAIN: Okay. But how do you know that the buck-a-truck procedure will provide you with ample repair needs when you didn't know -- don't know the thickness of the base for each of the roads?

MR. PODCZERWINSKY: I understand your question, sir. Simply a recommendation that I'm following from my management. This is what we've put into practice in the past, and it's what we've found accommodates our maintenance requirements.

CHAIRMAN STRAIN: Okay. I mean, I understand the history of that, John. In fact, I've actually pulled up records from the county Board of County Commissioners' meetings that talked about it.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: I'm trying to understand how it covers everything, especially when you ask a question like this, which means you don't know what's out there. And you've already said you don't know what's in Corkscrew when you responded to, I think, Mr. Midney's question.

And I really am puzzled as to how we know that the funds that are predicted to come in at a buck-a-truck are enough or ample to cover that in lieu of a proportionate share which was originally asked for.

MR. PODCZERWINSKY: I understand.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: Our alternative at this point is to request -- I mean, we've discussed the mining impact fee, which became effective after this site came in for this application --

CHAIRMAN STRAIN: Well, that's debatable, too.

MR. PODCZERWINSKY: It's not -- it can't be retroactively applied to them. And that mining impact fee would, in essence, not go to cover any of the maintenance on this. It would only cover additional capacity on this roadway.

So the buck-a-truck at least gives us some way to address the maintenance concerns that will be ongoing for the life of this mine, and it's tied to the traffic that the mine creates.

CHAIRMAN STRAIN: Okay. And what about the cross-section of SR82? Since the buck-a-truck only applies to Corkscrew Road, then how do you cover the maintenance needs of an SR82 then?

MR. PODCZERWINSKY: Yes, sir. State Road 82, the county is funded from the state for maintenance concerns on State Road 82. Our funding comes directly from them. To require funding additionally from this developer for that would essentially be double-dipping. We couldn't require that the developer pay us for money that we're already receiving from the state.

CHAIRMAN STRAIN: Okay. You also had provided them with the following: A choice of either contribution of \$1 per loaded truck trips on all driveways or, B, maintenance or roadways within a two-mile radius of the project driveways.

So two miles from these project driveways, both of them, to have to maintain those, you were better off collecting a buck-a-truck just for Corkscrew Road?

MR. PODCZERWINSKY: Yeah. When given the choice, sir, between two options, the buck-a-truck we found to be a more definable option. Again, it relates back to the question of the damage caused by this mine. Let's say, for example, we chose the second option with the, you know, maintenance within two miles of this site driveway.

It becomes difficult to know or to assign responsibility for any individual piece of damage to the road, say, a new pothole or a new bump in the road or a degrading shoulder. How do you assign that specifically to the developer and then require proportionate-share payment towards that one single item? We find that it's just much more definable to use a broadbrush and use the buck-a-truck response.

CHAIRMAN STRAIN: Okay. And only reason I brought it up is you asked for it originally, so that kind of

reasoning should have --

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: I mean, in your mind, I would --

MR. PODCZERWINSKY: And that was one of the reasons we were okay with letting go of that stipulation, that optional stipulation.

CHAIRMAN STRAIN: You had another stipulation. Any requirement for provision of mitigation to or on behalf of Lee County will require concurrence from Collier County prior to the implementation of any requirements. Did that ever transpire?

MR. PODCZERWINSKY: At this point, no, we're not collecting anything on behalf of Lee County, and the reason that that stipulation was in there was that if there was to be a third-party agreement between Lee County and the developer for any contributions, if it was to be somehow accommodated in our conditions of our conditional use, Collier County needed to know about those so we could determine their enforceability.

CHAIRMAN STRAIN: Did Lee County attempt to put any requests for mitigation into the CU process?

MR. PODCZERWINSKY: In early revisions, yes, sir, as I recall, they did, and one of the examples that sticks out in my mind was a requirement or a request, I should say, for proportionate share at Corkscrew Road and I believe it was either Alico intersection or the Ben Hill Griffin intersection, because they have some improvements ongoing at that.

CHAIRMAN STRAIN: And what was our response to that?

MR. PODCZERWINSKY: Our response was that I can't show that we're significant on the first link within Collier County, that the developer's actions are significant impacts on the first link in Collier County, that being part of our concurrency review, our consistency review with the Growth Management Plan.

I couldn't show that they were over 2 percent, thereby not crossing to the second link, the second concurrency segment, which would have been in Lee County. So I found it very difficult to endorse, from the Collier County standpoint, Lee County's request to seek proportionate-share mitigation from the applicant on a roadway that they did not show a significant impact.

CHAIRMAN STRAIN: Well, proportionate share I don't believe is something you can just make up. Do you know why Lee County would have suggested that was reasonable for them to even ask for it?

MR. PODCZERWINSKY: I think because there's not a lot of dropoff for truck trips in between the project driveway on Corkscrew and the two roadways that we discussed, you know, anything on Corkscrew.

I think they envisioned a lot of the traffic going straight from the project driveway to that intersection with very little dropoff of that, and I think they were just doing it simply as 100-percent impact.

CHAIRMAN STRAIN: And so if there was no significant dropoff, then these still don't meet the significance threshold that you are concerned about.

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: Okay. Those are -- that's so far. Thank you, John.

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER BROUGHAM: One question.

CHAIRMAN STRAIN: Go ahead, Phil.

COMMISSIONER BROUGHAM: I should probably know this, but who counts the trucks?

MR. PODCZERWINSKY: It will actually be the developer that will keep a count of that at their scale house, I believe it is. Is it operationally at the scale house? Do you guys do that? And it's one dollar per loaded truck, okay.

COMMISSIONER BROUGHAM: Okay, thank you.

CHAIRMAN STRAIN: We have a staff package in front of us that came, and I was going to start working through that before we got into specifics on any other issues. Does anybody have anything else they'd like to move into before we get into the package?

(No response.)

CHAIRMAN STRAIN: Okay. Kay, I guess some of these are going to be yours, if you don't mind. Okay. Kay, they provided a site plan. It's the one showing the lakes. Not this one, but the one with the black-and-white detail on it. They made some notes on that site plan that are a little hard to read, but I was going to read them to you.

And it shows along 82, per LDC, no landscaping buffer required, and it shows a BB layout. Are you in agreement with that?

MS. DESELEM: I'm trying to -- I'm sorry. Where at on the site plan again?

CHAIRMAN STRAIN: Go to the -- State Road 82, and go up where it says AMHO, and there's --

MS. DESELEM: Oh, okay.

CHAIRMAN STRAIN: -- a little notation there with a triangle, which means it was changed, and they're showing a cut, BB, but they're saying there's no landscape buffer required. Is that -- are you in agreement with that?

MS. DESELEM: I'd have to go back and look at the standards, but I believe it's ag to ag, so -- and they own the land.

CHAIRMAN STRAIN: That isn't 82, I'm sorry. I mean, it's their ag land.

MS. DESELEM: Yeah.

CHAIRMAN STRAIN: I understand. There's a note over on the left side, it's Note 3. It says mine boundaries, in parenthesis and associated land use area values, end parenthesis, do not accurately reflect future lake boundaries, as an additional area may be added to accommodate lake contour shaping littoral shelf planting areas.

So the map we see here or the map we see there, and the map in which I think staff asked for a 300-foot setback from the property line, was it your understanding that that 300-foot setback would be violated by the issues that I just read to you?

MS. DESELEM: I'm sorry. I'm trying to find the note that you just read from.

CHAIRMAN STRAIN: Okay. Go to the left-hand side of the map of the site plan.

MS. DESELEM: Okay, I've got it north, pointed north, right? So on what side?

CHAIRMAN STRAIN: South.

MS. DESELEM: South.

CHAIRMAN STRAIN: You know, women usually don't understand those directions. They like left and right. At least that's my experience with my wife. So I'm just giving left and right. I mean, if I tell her to go south, she'd kill me.

MS. DESELEM: I always thought that was attorneys that didn't understand that.

CHAIRMAN STRAIN: Okay. Well, on the south side, you see those notes, one, two, three -- Note 3 is what I'm asking about.

MS. DESELEM: Okay.

CHAIRMAN STRAIN: The way that reads, it seems like the mine line is not fixed and they're going to accommodate into that line for contour shaping and littoral shelves plantings areas. Is that the way you understood the 300-foot application to be that you asked for in your staff report?

MS. DESELEM: My understanding is that they cannot put the lake within any setback. I mean, they might have to meander it in a different fashion from what exactly is shown, because it is conceptual, but they can't put lakes in the setback.

CHAIRMAN STRAIN: So the Note No. 3 can't really apply in violation of the minimum setback requirement; is that right?

MS. DESELEM: That's correct.

CHAIRMAN STRAIN: Okay. I'm moving through all the paperwork, so I'm not sure if the next one's yours or somebody else's.

COMMISSIONER BROUGHAM: Mark, if I might.

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER BROUGHAM: What is the proposed setback? I mean, I've watched the moving numbers here from 50 to 150 to 300 to 1,000 to -- where are we currently?

MS. DESELEM: I think at this point staff and the applicant at least have agreed 300 feet.

COMMISSIONER BROUGHAM: Three hundred?

MS. DESELEM: Yes.

COMMISSIONER SCHIFFER: And further -- looking at these sections, it shows they're measuring it where the water line hits the ground. What we're saying is that if we do put a littoral zone in there, it will be in that setback area that they can do that.

CHAIRMAN STRAIN: She's saying no.

COMMISSIONER SCHIFFER: She's saying no?

CHAIRMAN STRAIN: Right. That's --

COMMISSIONER SCHIFFER: The applicant told me -- when I was talking to the mining guy, he said he -- and the littoral zone we're talking about with the environmentalist from Lee County is a really slight slope. I think that the only danger -- because it doesn't affect the mining operation; it really affects, you know, the post-mining operation, or how they could sell these lots is to make sure that these are buildable lots for residents when we're done.

But -- so, Kay, you say that if we put a 50-foot -- and what did she say, it was like a one to --

CHAIRMAN STRAIN: Well, the distance that the -- well, 8-to-1 or a 10-to-1 slope, 50 foot wide by 200 feet long.

COMMISSIONER SCHIFFER: Yeah. So those would be cut into this or not?

MR. ENGLISH: For the record, John English for the applicant. Just a little clarity on this issue. Littoral shelf, that's a term that can mean more than just one thing.

The code will require and the DEP permit requires that we create littoral shelves. That means a planted edge, typically maybe some amount above the edge of water, which is that water line you mentioned earlier, and some portion of it below that, and you choose the appropriate plantings.

The -- when Lee County staff was talking about creating a place for wading birds, for instance, a shallow area, that's usually not necessarily the same as a typical lake-bank littoral shelf that we're putting on on a typical development lake. That's an area that's crafted as a flat or shallow pool.

And so in regards to the 300 feet -- a 300-foot setback, what we would anticipate -- and the littoral shelves, obviously, haven't all been designed as of yet specifically where they would go.

The -- we would -- we'd probably have that 4-to-1 shelf along the 300-foot setback, along that edge of water, and that if we were to create any shallow pools for wading birds, that would probably be more in the vicinity of the WR -- existing WRAs, which is a more appropriate location for those.

CHAIRMAN STRAIN: Okay. So what was your intention by the note on your site plan? I think that's what brought the question up.

MR. ENGLISH: Okay. Which note was that? I'm sorry.

CHAIRMAN STRAIN: Well, let me try the left side.

MS. DESELEM: Left.

CHAIRMAN STRAIN: South side of the plan. There's No. 1, 2, and 3. It's the third note.

MR. ENGLISH: Third note.

CHAIRMAN STRAIN: Oh, it might say -- I was just -- it's really hard to read, but I was just told it might say No. 2, so you've got two 2s. Yes, you've got two 2s. Thank you.

MR. ENGLISH: All right. So you're referring to the second No. 2?

CHAIRMAN STRAIN: Yes. Oh, on the south side of the map that we -- that's on the left side if you look at it that way.

COMMISSIONER MIDNEY: With a magnifying glass.

CHAIRMAN STRAIN: Yeah, it's hard to read.

MR. ENGLISH: Are you questioning why there's a triangle up there with a No. 3 and relating it to that note?

CHAIRMAN STRAIN: No. I'm trying to understand what you meant by the note. Basically you're going to say you're going to violate the setback by the note. What are you going to violate it with?

Mine boundaries and associated land-use values do not accurately reflect future lake boundaries, as additional area may be added to accommodate lake -- it's hard to read --

COMMISSIONER BROUGHAM: Lake contour.

CHAIRMAN STRAIN: -- lake contour shaping and littoral shelf planting areas. What is it you're intending to do with that --

MR. ENGLISH: That note was specifically just to state that we drew very straight lines for these lake edges of water and that, in reality, they may undulate or take a slightly different shape.

CHAIRMAN STRAIN: Okay. Are they going to undulate into the setback or outside the setback?

MR. ENGLISH: No, outside. We would not violate the setback.

CHAIRMAN STRAIN: Okay. Well, then we need to change the language in that, because that kind of language would certainly reflect your ability to move it either way you wanted to, and I don't think -- whatever the setback ends up being, if we end up with one, then I think you need to -- you need to make sure it's inside the setback that you're talking about -- I mean outside the setback, not inside it.

MR. ENGLISH: That's fine. We can alter the note. I would take a setback as to mean that we could not violate the setback --

CHAIRMAN STRAIN: Right.

MR. ENGLISH: -- but we can alter that note to make it clearer.

COMMISSIONER SCHIFFER: Yeah. And I think you shouldn't -- it should be to that 1-to-4 slope, because I think if we do make larger required shallow littoral zones, I think that would be certainly allowed within the setback. That would be in -- because it has nothing to do with the mining. It's just purely setting the land up for the future.

CHAIRMAN STRAIN: Well -- so then you want the note to leave as it is?

COMMISSIONER SCHIFFER: I would want that -- where the 1-to-4 slope part -- because obviously you're showing the groundwater hitting the land and going one in four. If we do, as suggested by Lee County, some lesser-sloped areas, they can be, I think, within the setback. I don't know. We're trying to figure out how to word that. We could work on it, but --

MR. ENGLISH: If you want to make that allowable, that's fine, as long as we don't have to commit that that's where we're exactly putting them, because we haven't figured that out yet.

CHAIRMAN STRAIN: I think it will be a point of discussion before this is all over with, so -- we'll get to it.

MR. ENGLISH: Yes, sir.

CHAIRMAN STRAIN: Thank you.

John -- or not John, I'm sorry. The traffic engineer, Mr. Talone, I think it is -- or who's their traffic -- who's your traffic engineer? Yes, sir.

I'm just going to hit the questions I have in your package as they're presented, so we'll just have to go from there.

MR. TALONE: Ron Talone with David Plummer & Associates.

CHAIRMAN STRAIN: On Page 4 of your TIS, you talk about the intersections of SR82 and 29, and 29's at an F. And John had -- and there's a footnote that I cannot read because the page I have is all blurred out. Do you know what that referenced footnote is?

MR. TALONE: The footnote?

CHAIRMAN STRAIN: Okay. Next to the F you have a subscript or a superscript.

MR. TALONE: Footnote 1.

CHAIRMAN STRAIN: Okay. What is that -- I can't read Footnote 1 on my copy. I don't know if the rest of you have a clearer copy, but I sure don't.

MR. TALONE: All that's doing is explaining the derivation of the level of service was based on an analysis as an unsignalized intersection, and we reported, the first letter represents the major street left-turn level of service, and the second letter represents the minor street level of service.

CHAIRMAN STRAIN: Okay.

MR. TALONE: So that would mean a left turn from eastbound to northbound.

CHAIRMAN STRAIN: Okay. And you're not having a significant impact on that or any --

MR. TALONE: Our traffic analysis showed that we had -- did not have a significant impact on either State Road 82 or Corkscrew Road.

CHAIRMAN STRAIN: Okay. You talk about 700 trips or 683 truckloads of material per day. Now, that's an average, I believe, right?

MR. TALONE: Yes, sir.

CHAIRMAN STRAIN: And I think in the reports that we've seen they're going to be -- we're talking about -- the mine is limited to an average of 700 trucks per day. What is the maximum amount of trucks per day that you expect out of that road, or have you looked at it that way?

MR. TALONE: Yes, we did look at it. I don't know if I have the graph up with me, but it varies from somewhere around 650 to 750 based on our estimate.

CHAIRMAN STRAIN: So you don't think as a maximum you'll ever get above 750?

MR. TALONE: Approximately, yes.

CHAIRMAN STRAIN: Does the trip counts have any impact -- are they impacted by the hours of the mine?

MR. TALONE: I would think to a minor extent.

CHAIRMAN STRAIN: So if a mine operates 24 hours and you spread the trucks over 24 hours, it's a minor

change to go to 12 hours?

MR. TALONE: It would depend on the volume being extracted.

CHAIRMAN STRAIN: Okay. Well, if you're 750 maximum, how many trucks were over the 24-hour period?

MR. TALONE: I'm not sure I understand. The --

CHAIRMAN STRAIN: Well, it's a limited mine. You're not supposed to work during the night. But if you go to the fourth -- fifth paragraph down, it says, on-site mine employees are anticipated to work in three 8-hour shifts covering the 24 hours a day. And I'm just wondering why you would approach it that way if they're not going to be operating 24 hours a day.

MR. TALONE: Well, we wanted to account for the fact that there may be some security personnel or change of shifts for the on-site employees. That in no way implies that truck operations or mine operations would be over the 24-hour period, but it anticipates there would be a staff at the mine 24 hours a day if, for nothing else, security and that sort of thing.

CHAIRMAN STRAIN: Okay.

COMMISSIONER MIDNEY: I think if you calculate it out, 750 trips a day squeezed into 12 hours it would be about 60 trips an hour, right, or 30 trips an hour?

CHAIRMAN STRAIN: Something like -- I didn't calculate it out.

COMMISSIONER MIDNEY: A trip every minute or every two minutes.

CHAIRMAN STRAIN: But see, if he's going 24 hours but he didn't calculate the mine operations, then it's just one employee. So you calculated your TIS on having one employee there at nighttime?

MR. TALONE: I don't remember the specifics, but it was a small number.

CHAIRMAN STRAIN: Okay.

Terri, I know I've missed the time. I usually give you a break at four, so we're going to take a short break of ten minutes right now, or nine minutes, come back at 4:15, and then we'll finish up by quarter to five, five minutes to five.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. If everybody would please take their seats.

I guess now's a good time to understand how we're going to finish up today.

Ray, I know we moved the Mobility Master Plan to the 1st of December. I would expect that that meeting -- we could finish this up in the morning, and whenever we finish we could go into the Master Mobility Plan, so we still keep that on schedule.

But I could expect that at quarter to five or so we'll probably have to motion to continue until that time.

And I did talk to Mr. Starnes earlier. He has no problem with providing his brief, as we previously discussed after rebuttal, because rebuttal won't be today, and so he'll be back at that time.

And, Bruce Anderson, are you here? There you are, quietly standing along the side. Bruce, you had talked to me at one of the breaks about a possibility of a site coordination. Did you still want to bring that up? Because if you did, if you did, we've got to do it before the day's over.

MR. ANDERSON: Yes, sir. We'd like to invite the Planning Commission to continue and come out for a site visit -- it will be a dually advertised noticed meeting continued from this one -- and come out and walk on Alico's property and inspect exactly where the mine would go, see it in relationship to the surrounding area.

CHAIRMAN STRAIN: And my concern expressed to you was the logistics of doing it still under the Sunshine. I don't want us to trip up any Sunshine Laws, especially in a due-process issue. So from the county attorney's perspective, do you -- what do you think about that proposal and how -- do you know any way it could be accomplished? Because I couldn't figure it out unless you had -- well, you'd have to be transported separately or someone would have to -- I mean, it would be a lot of ifs.

MR. ANDERSON: Well, we could all go on a bus and have a media chaperone.

CHAIRMAN STRAIN: A media chaperone?

MR. ANDERSON: Yeah.

CHAIRMAN STRAIN: Well, but I think if it's a meeting of the Planning Commission, residents may have the right to attend, too --

MR. ANDERSON: Oh, sure.

CHAIRMAN STRAIN: -- so we have to make that opportunity available to Lee County and everybody else.

MR. ANDERSON: Absolutely.

CHAIRMAN STRAIN: Heidi, got any comments, concerns, issues?

MS. ASHTON-CICKO: Well, we've done it, and we've advertised site visits as a meeting, but we've also done it as a site visit, advertised it as a meeting but yet didn't have the members talk amongst themselves, because the issue is going to be making sure we've got the appropriate minutes and make sure the public is afforded the opportunity to hear the discussion.

So if you do a site visit -- my recommendation would be you can all go out there. The recommendation would be not to discuss it amongst yourselves. Let them do a presentation, and I guess if we have questions, then we'll just have somebody there to take minutes of the questions.

CHAIRMAN STRAIN: Wouldn't it be cleaner -- and I know it would take more time on your part, but if you send out an email invitation to individuals on the Planning Commission -- because if you ask us to contact you, that might not be so forth- -- so responsive. If you just sent an email out inviting us on a one-to-one to arrange to meet you on the site, just like the neighbors have arranged -- have asked me to meet them on the sites, and I haven't been able to yet. But maybe that would be a better way to approach it and avoid all the problems with the Sunshine Law, because I certainly don't want to see this process mucked up with any kind of concern over that. So would that work for you?

MR. ANDERSON: Sure.

CHAIRMAN STRAIN: I think that would be a cleaner way to do it, Bruce, and then if there's some way to accommodate those that want to go out and take a look at it, then that might be the way to go.

MS. ASHTON-CICKO: I think that would work, and then, of course, that would have to be part of your disclosures, you know, at the next meeting.

CHAIRMAN STRAIN: Yeah. I think that would work a lot cleaner. But, thank you. I appreciate the offer, too, Bruce. Thank you.

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: Okay. I had some questions of Mr. Straw to finish up before we got into the other stuff.

During the Jones Mine process --

MR. STRAW: Yes, sir.

CHAIRMAN STRAIN: -- you said the following: Currently because of the eight times per month to blast, they are required to shoot much bigger shots, some of them are 200 holes, some of them are smaller. We're trying to get to a point where we can cut down the number of larger shots and actually reduce the offsite effects for the number of blast holes, as well as changing some of the pounds per delay that's used in these shots to actually have a little less offsite annoyance.

So you're working on two things there, reducing a number of the blasts per hole and changing some of the pounds per delay. Then you go on, so the proposal's been to shoot no more than 110 holes per blast. That comes to about, with the 18 or so that we're looking at, we're looking at about 1,680 hole blasts per month, which I know you guys are in agreement on the quality. That would be four times a week and no more than 18 per month. That would reduce overall, in our opinion, the velocity levels.

Now, how does that -- those comments you made at that mine reflect the ability of this mine?

MR. STRAW: Well, the -- they're two completely and entirely different operations.

CHAIRMAN STRAIN: Okay.

MR. STRAW: And to start -- and it's not the number of -- you said something, and I thought I mis -- maybe I misheard; it was backwards. It's number of holes per blast, I think, is what we're looking at.

CHAIRMAN STRAIN: You said, so the proposal has been to shoot no more than 110 holes per blast.

MR. STRAW: Okay. And that -- something like that I believe will work for this operation. The difference, however, is the other constraints that are part of the Jones Mining conditions. This operation will start effectively very similar to Jones with the shallow depth at the north end above the -- to remain above the confining layer consistent and similar to what Jones is drilling and blasting, area 45 feet is what I recall.

As this mine progresses through its excavation to the south, the depth will change. You have one pass, if you will, at blasting. In other words, we can't come through and blast 35 feet, come back and drill the same thing and drill

it to 75 feet, and then come back to whatever the ultimate end depth is in doing that.

You have one opportunity to do this, and I guess to explain blasting just to take a step backwards for those members of the commission that aren't as familiar with it, the rock hardness is what determines whether we need to blast or not. Due to the depth, they're going to use dragline-type equipment. Dragline does not have mechanical force. As Dennis described, it hoists the bucket out, the bucket pulls back, lifts up and hoists. It's not like a backhoe where you have a mechanical force pressing down on the rock and digging back up.

At depth that bucket is left out, it's pulled back by a series of cables, and picked back up. So it's basically like pulling a -- if you will, a plastic cup through the sand or through some material to you, and then it's picked up, turned and stacked wherever it's -- is a part of the mining plan.

To break up that rock, first you have to drill and blast it. So there is a special drill that -- it comes into the site. There is a licensed explosives contractor that's retained. They have state licenses, ATF, a series of other licenses that they are mandated to have.

They come in, they will lay out a pattern consisting of a number of holes. We've talked about a spacing of 17 by 17. That may expand, that may contract depending upon things like borehole diameter, the depth, the type of explosives that are going to be used.

When that is determined, then that pattern is surveyed and laid out. The drill will come in and drill the holes. It has an ability to have kind of an outer steel and inner steel. The inner steel pulls up. They put in a waxed cardboard tube. That cardboard tube has -- comes in sections. Those are put together to the length of the -- to the depth of the blast hole. Then that drill stops, leaves cardboard tube in the ground, moves to the next hole.

Once they drill that pattern -- and it's a series of holes. I mean, it could be 20, 30, up to the -- I think 110 was the number you just mentioned. Whatever that number is determined to be, then on the day of the blast -- and we've talked about -- you know, Dennis thought two days per week or two times per week would be what is necessary. Then that explosives contractor will come in, load those holes, detonate and -- you know, detonate the shot, and it's over within two to three seconds, is the typical length of time. Then that's done until they come back to do it again.

I know there's been questions about, gee, do you start at eight o'clock and finish at five o'clock? They'll typically shoot once per day. The only change we would ever foresee is if -- as they get closer. It's not necessarily the pounds in the overall shot; it's the pound per hole or pounds per delay that we use to control vibration.

Because of the depth, there'll be -- there's a difference in explosives weight. So I think that's the big difference between the Jones Mine and this. But the number of holes will vary depending upon proximity and the off-property vibration measurements.

CHAIRMAN STRAIN: The expert that spoke in the initiation when Lee County started out, he talked about a weight of 176 pounds per delay at 1,500 feet minimum distance and the nearest off-site structure.

Now, what's your thoughts on that?

MR. STRAW: Well, I've looked at Dr. Rix's data, and if you remember -- and maybe this will -- if I can find the -- if I can find his graph.

This is Dr. Rix's graph. And, Commissioner, it's the one that had the hieroglyphics on it, and somehow the printed copy worked.

The data points represent what he used for projections. They came from two operations, the Yunquist mine in Lee County, which doesn't use -- doesn't have the same type of explosives, the same amounts of explosives, and it also came from a land development and utility project that we worked on in 2000. So the data that represents that graph that he made his projections from doesn't relate to mining operations. I don't think it's extremely accurate or, in my opinion, it's not well done.

As far as the distance, we use -- we don't use a distance. What the state has is a performance ordinance. It's similar to what we talked about with the noise.

And the performance ordinance provides the state criteria, and I'll -- for the lack of having -- for the lack of having a better graph, the State of Florida has a vibration limit that's based upon ground vibration, and we measure what we call velocity. It's how fast a particle of ground or structure or whatever we're measuring, how fast it shakes, and across the bottom we measure the vibration frequency.

Particle velocity, I've said, is the speed of oscillation. The United States Bureau of Mines back in the early 1960s said that's the best way to address damage potential.

Frequency is how the ground wave cycles. You think of it as a bass drum versus a violin playing a very high

note. They're opposite ends of the scale. The bass drum is a very low frequency noise. Violin, a higher-end noise.

For us in this industry, the lower frequency causes response of a structure. And Dr. Rix was correct, and he was just regurgitating information from the United States Bureau of Mines reports. And what they studied was effects on structures.

So what we use is that criteria for the state that's on the graph. And what it says is that when you're at very low frequencies, i.e., really 1 up to about 15 hertz, you use .5 for plaster on lath protection of structures, .7 for drywall.

And then as the vibration frequency gets out of what we call the natural response of individual structures, the frequency can be -- gets higher; so does the corresponding limit, all the way up to 2 inches per second.

So what happens in this -- we use this performance criteria. And it doesn't make any difference where they blast; they have to meet that criteria. Now, the state -- and I know there was some discussion about the seismographs, where seismographs are located. Those are mandated, again, by state law.

They -- one -- a minimum of one has to be at the closest structure. It's not owned by the mining company or the blasting contractor or something like that. So wherever they start blasting, whether it's us that monitors or a firm like us that monitors, they have to determine what is the closest structure and put a seismograph at that location.

Additional seismographs depend on where the blast is, where the other homes are in the area, but the state requires that every blast is monitored. Those records have to be available and provided, you know, for the state upon any inspection, which they do, and evaluation.

So those performance standards are what we use in the industry, rather than any kind of setback. You know, setbacks, based on ground vibration, are extremely subjective. And the tolerance here is not no vibration; it is what the state has determined those levels are.

CHAIRMAN STRAIN: So in this case the maximum vibration that could be sustained by structures in the area would probably be the .50 because they're stucco and plaster?

MR. STRAW: No. Stucco and plaster actually is higher. What we talk about is plaster on lath is what you see in the old farmhouses. Interior kinds of material where you had the -- it's like a wood strip lath, and then they would do --

CHAIRMAN STRAIN: Yeah.

MR. STRAW: Commissioner, you're shaking your head. It's where, you know, there's a heavy thick coat of plaster and a second coat. We don't have a lot of those here in Florida, but we, as the course of business, typically, when we deal with very low frequencies, we use the .5 as a safeguard.

Now, I know Dr. Rix talked about no damage and all this other stuff, and it's a little running discussion that he and I have had in some of these meetings where he says there's never a no-damage threshold. And I didn't know whether I was going to present today or not, but there is part of the Bureau of Mines that says below .5 there's not an occurrence of damage.

And Dave Siskin, who wrote these reports, has had -- when he was still head of the research division for the Bureau of Mines, had come to a number of these and said, we don't see anything below .5. That's why I use it as a non-damage threshold, not the .75. But those are still designed to protect interior cosmetic defects from occurring.

CHAIRMAN STRAIN: Go ahead, Paul.

COMMISSIONER MIDNEY: Well, again, this is kind of parallel to the questions I've been asking about noise and the roadway. But I know that there's a state fire marshal standard as to how much blasting -- blast intensity that can be done. Does this board -- when we're considering this in terms of whether this is compatible with the neighborhood, are we limited to the state fire marshal's standards, or can we say that specific to that rural area site we can choose a standard that's lower than the amount of blasting that the state fire marshal has said is illegal?

CHAIRMAN STRAIN: It's my understanding, because this is a conditional use, we can recommend stipulations. And I don't believe we're limited in what stipulations we can recommend, unless Heidi has a different thought on it.

MS. ASHTON-CICKO: As to which stipulation?

CHAIRMAN STRAIN: Paul's question was that the state fire marshal has certain standards that he has to issue permits with. He wanted to know if we could recommend standards that are different than the state fire marshal's as a condition of the conditional use. I think that's what he was trying to say.

MS. ASHTON-CICKO: Your review is related to the compatibility issues related to the land-use portion. So to the extent that there are issues -- and it may not be specifically the blasting. It may be other types of things that

occur. Those stipulations are appropriate. If you're trying to place specific limitations on the blasting, then I think that if the owner voluntarily is willing to agree to those kind of stipulations like they've done in the Jones Mine's case, then that's something you can proceed with.

COMMISSIONER MIDNEY: No. I wouldn't be thinking of telling them how much you can blast. But my point is, they may not be blasting loud enough to be breaking the law but yet it may be loud or annoying enough to be not compatible with the neighborhood.

And do we have the -- do we have the ability to set standards that are lower than the state fire marshal standards? In terms of compatibility, not in terms of how much they can blast.

CHAIRMAN STRAIN: If we set a vibration standard that is lower than the state fire marshal's because we believe that's the only way this mine can be compatible or more compatible with the neighborhood, and the applicant either decides to agree or disagree and we base our vote on that, is that -- is that a direction we could go?

MS. ASHTON-CICKO: I believe if they agree to it then you're not going to have an issue. If they don't agree to it, then we might have to see what other compatibility issues might exist with, like, the appurtenances and other equipment that they have that will also be making loud noises, other than the explosives.

COMMISSIONER MIDNEY: Yeah, it's kind of a multi-faceted thing.

MS. ASHTON: Right.

COMMISSIONER MIDNEY: It's noise, it's glare, it's vibration.

MS. ASHTON-CICKO: Right.

COMMISSIONER EBERT: Okay. Can I ask a question?

CHAIRMAN STRAIN: Yes, thank you. Go ahead.

COMMISSIONER EBERT: Paul, were you asking this because the settlement area is a hundred years old and they're --

COMMISSIONER MIDNEY: Well, I think that they do -- you know, the fact that this is a very old community and that we should be respectful of the people who have been here all these years. But I guess, yeah.

COMMISSIONER SCHIFFER: Mark?

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Go ahead, Brad.

Oh, go ahead, Diane.

COMMISSIONER EBERT: I have one question from you. You keep referring to Jones Mine. And I had asked the county to bring pictures of the mine, and I can't find Jones Mine anywhere.

CHAIRMAN STRAIN: Well, it's there. It's the 846 Earth Mining, I believe it's called. The Jones Mine was the common name we used as it went through the process. But the landowner official name, I believe, is the one just north of Orangetree that's labeled -- I think it's 846 Earth Mining, Inc., or something like that.

COMMISSIONER EBERT: Okay.

MR. BELLOWS: I agree. It's 846 Land --

COMMISSIONER EBERT: He calls it one thing, and the map is --

CHAIRMAN STRAIN: Well, those of us that were on the Planning Commission at the time, that's how we remembered it by, I would think.

COMMISSIONER BROUGHAM: Mark, if I might.

CHAIRMAN STRAIN: Brad was next, then you, Phil. Is that okay? Brad?

COMMISSIONER SCHIFFER: And I have a question for Jeff before I ask that. Instead of using the phrase "lower than the fire marshal," I would say "more restrictive than the fire marshal," just to make it clear, because you can't make anything less restrictive.

Jeff, the buildings around this thing, they don't look like they're built on mounds and stuff like that. Do you agree, or -- are the structures that exist in this area pretty much foundations and all on grade?

MR. STRAW: To the best of my knowledge -- I mean, I haven't looked at all of them. I mean, I have driven around the site, and what I can see without going in through private driveways and private roads, I mean, they look like -- I mean, with the exception of the community to the south -- appear to be standard Florida construction, concrete block, stucco on grade and, you know, concrete block walls, et cetera.

So, yes, as far as that goes, that's my opinion of what they would be.

COMMISSIONER SCHIFFER: Okay. I think when you get up into Lehigh, their building is up a little

higher on mounds and stuff, but --

MR. STRAW: And, certainly, you know, one of the other -- one of the other items that we have talked about is the preconstruction inspection or the preblast inspection, and so that you folks understand typically what that is, is it's a notification to the property owner of their ability to have one of these. It's an explanation. We go through and typically look at walls, ceilings, floors, closets, everything under the sun, and document interior, exterior, existing cracks, peeling paint, water damage, anything that we see.

And it doesn't make any difference what the structure is. I mean, mobile home, house, whatever. If they've got a barn or something like that, we're looking at all of that. Photographs are included, and photographs of the outside of the house and documentation of what is there.

It is a baseline threshold. You folks have them as part of your code for land development, and this is, you know, an extension of that. It provides an opportunity for everybody to have a baseline of what's in the house. It also allows us to see in detail what the construction of those homes are so that if we see something that is different or a different structure or something we have a concern about, then we can make sure that that is available for our evaluation.

This is not just going out, drilling a bunch of holes, throwing a bunch of explosives down it and shooting it. I mean, those days are gone. Those were -- some of the days when I got here in 1980 in early Florida, there was some of that stuff being done. That doesn't happen anymore. The state fire marshal's on top of it and everybody else is on top of it for that, you know.

And then if there is a complaint -- and I know there were questions about that. And, you know, Dennis addressed part of it. But if the mining operator receives a complaint or the homeowner wishes to, they call the state fire marshal. There is an 800 number for that. They have a publication that talks about it, and the mining operator, as part of their permit that they have to get from the state marshal, is mandated by law to forward any complaint, claim, anything to the state fire marshal's office for evaluation.

CHAIRMAN STRAIN: Okay, Phil?

COMMISSIONER BROUGHAM: Yeah. Just going back to Mr. Midney's question earlier when Mr. Chip, last name, Block, Beck --

MR. STRAW: Block.

COMMISSIONER BROUGHAM: Block -- talked to us at the last meeting, I think some of his last words were, Florida Statute 5.52 says, sole and exclusive authority to regulate directly or indirectly mining operations rest there Florida Statute -- with the state, with that Florida Statute, and also I think he mentioned that he would suggest our county attorney needs to research.

And I'm trying to understand Paul's question in the context of the state having the sole and exclusive authority to regulate mining regulation directly or indirectly. And I would like some more clarity on it. Not necessarily today, Heidi, but next meeting. Because we're talking about potentially -- potentially adding conditions or stipulations that the applicant may or may not agree with, and I want to be sure that we're not stepping into the state pie (sic) here.

MS. ASHTON-CICKO: Well, that section, as well as the section before it -- I think it's 552.25 -- it does provide some limitations on the county's ability to regulate blasting. But you're here to do a review of the mining conditional use and to do a compatibility analysis. So -- I'm sorry?

COMMISSIONER BROUGHAM: That may be the distinction. Maybe I wrote this note incorrectly, but I believe he said mining operations, and I'm interpreting mining operations extends a lot further than blasting.

MS. ASHTON-CICKO: I think the limitation deals with the blasting and the use of explosives that are supposed to be under the jurisdiction of the state fire marshal.

COMMISSIONER BROUGHAM: I'm not necessarily asking you to bottom line that today, unless that is the bottom line.

MS. ASHTON: I think there are some --

COMMISSIONER BROUGHAM: It's a little confusing to me as to blasting and operations.

MS. ASHTON-CICKO: I think it is confusing, but I think that there's some limitations you can place and some that you can't. And so when we proceed forward and there's some things you'd like to limit, we'll have to discuss that particular stip at that time.

CHAIRMAN STRAIN: Steve, I saw you rush up here. Did you have something to contribute?

MR. WILLIAMS: Steve Williams, assistant County Attorney's Office. No, I helped Heidi look at this, and I

agree with what Heidi said. It's -- Chip had mentioned something, but it was restrictive to that statute, and it was not quite perhaps as broad as was indicated.

So we'll look at it as it comes through. As Heidi said, if there's particular conditions placed on it, we'll look to see if they violate the statute. If not, we've got room to place our own conditions in there.

CHAIRMAN STRAIN: Okay. Paul?

COMMISSIONER MIDNEY: I would imagine it would be tough for our county staff to measure the intensity of blasting in a complaint because it would have to be after the fact. How would you go in and decide that they had broken the blasting ordinance or the intensity that we had -- if we were to place a level, how would county staff enforce that?

CHAIRMAN STRAIN: I believe the seismographs would tell us that.

MR. STRAW: That's correct. You do have a seismograph that -- again, the seismograph is there for every blast that's detonated, and whether it's operated by somebody like that or whether we have remote instrumentation or however that is set up, at that closest house is what they gauge compliance to the law with. And the indirect -- you know, direct/indirect that the state fire marshal passed -- not being an attorney -- but the -- it relates to what they call construction materials mining activity, which is commercial mining operations, that -- and it is restricted to the use of explosives. It's not the rest of the mining operation. This is for the use of explosives.

So it doesn't relate to noise, it doesn't relate to, you know, setbacks, things like that. It is strictly related to the use of explosives in the State of Florida for commercial mining operations.

COMMISSIONER MIDNEY: Not being in that field, I would feel very uncomfortable suggesting the level. I'm totally ignorant on it.

CHAIRMAN STRAIN: Well, we've done it before, so -- I don't think we were the last time either. In fact, I've got a whole pile of quotations from you that we questioned you back and forth, and I'm still going to do the same thing again today.

One of the things you limited yourself to, there would be no more than 24 seconds of what we call blast initiation that would occur during the month. Is that an issue with this mine?

MR. STRAW: The concern that I have about initiation and looking at that, the concern about that is that with this mining operation we have the ability to do more advanced timing of the individual blast holes.

We are doing some work over on the East Coast where we have the blasts that last much -- the initiation lasts longer, but it allows us to shift the vibration frequency out of the response where we have it with a house, so that three-second issue concerns me there.

We're, again, back to the performance ordinance of coming up with whatever that level is, maintaining that level. How we can get there is what we need to -- is what the operational end needs to be. If they need to reduce the explosives in the hole, if they need to what we call deck the hole, which is separate explosives in a column, they need to have that flexibility.

They may shoot less holes in a month. You know, as Dennis talked about, a lot of this -- and all of this is market driven. So even though, you know, we've talked about the 110, you know, two times a week, I mean, that may not be something that they need to do.

It may also be that as we get closer to the west end in one of those lakes or what we would call that excavation, that cut, it would be impossible for them to do that because of the ground-vibration standards. So what you use is that performance ordinance and let a blasting contractor have the flexibility to do what they need.

The difference in Jones Mine is that Jones had three or four different areas, if you'll remember, in that plan. They had four or -- three or four different areas that they were going to be blasting simultaneously.

So they could shoot a series of blasts close, then go to the other end of the property and shoot six one-hole blasts and constitute the monthly average. This operation is quite different with that in that there is going to be a cut and successive cuts and whether they run east to west and then go north to south. It's a different mining operation and a different layout than Jones.

So that's why I focus back to the vibration standards, whatever they are, and whatever your attorney tells you, whether it's the state criteria or whether, you know, there's some other criteria that you can use.

CHAIRMAN STRAIN: Okay. Thank you, sir.

MR. STRAW: Thank you.

CHAIRMAN STRAIN: We're getting close to the time to finish up for today. I believe that based on what

we've accomplished today, the testimony we've heard, the public input that we've gotten, that we can get through the rest of this in the morning portion of the December 1st meeting. So we would consider continuing it to that.

I do want to comment to the residents and the people from the public who spoke. You are one of the most focused and, I guess, direct group of people that have spoke to this commission, so we appreciate that. You stayed to the facts, and that's -- that was helpful. We have -- a lot of times testimony is pretty scattered, but you guys are well organized, and we appreciate the factual information you provided.

So with that, Bruce, do you have any --

MR. ANDERSON: Yes, Mr. Chairman. We would like to have the opportunity to get someone to advise us, and you as well, on noise compatibility and visual compatibility. And for those purposes, we're asking to have a continuance until your January 5th meeting.

CHAIRMAN STRAIN: I don't -- I mean, if we're going to get better information, that's not anything we normally object to. What's this board --

COMMISSIONER SCHIFFER: I'm good.

COMMISSIONER EBERT: I'm good.

CHAIRMAN STRAIN: Nobody seems to -- I think that's fine. Plus, to be honest with you, I would like to take all the notes -- not the notes I have, but more or less the pages from the staff report that talk about specifications or stipulations and consolidate them into one concise paper so we can move the final meeting to closure. But I think that's fine.

Ray, what is the meeting in January that we would be looking at?

Would it be the first meeting in January, Bruce?

MR. ANDERSON: Yes, sir.

COMMISSIONER BROUGHAM: That's January 5th.

CHAIRMAN STRAIN: Okay. So I don't see a problem with that. Is there a motion to continue -- well, I think that wraps up the business for today.

COMMISSIONER EBERT: I make the motion.

CHAIRMAN STRAIN: Make a motion to continue it to January 1st by Ms. Ebert.

COMMISSIONER SCHIFFER: Second.

CHAIRMAN STRAIN: Seconded by Brad Schiffer.

COMMISSIONER BROUGHAM: January 5th.

CHAIRMAN STRAIN: January 5th, I'm sorry.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0. We will continue on -- with this one on January 5th.

Now we need to adjourn this meeting. Is there a motion to adjourn?

COMMISSIONER EBERT: I'll make a motion we adjourn the meeting.

COMMISSIONER SCHIFFER: (Raises hand.)

CHAIRMAN STRAIN: Second by Commissioner Schiffer.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER EBERT: Aye.
COMMISSIONER KLEIN: Aye.
COMMISSIONER BROUGHAM: Aye.
CHAIRMAN STRAIN: This meeting's adjourned.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 4:50 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 12-15-11, as presented or as corrected .

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