



May 8, 2019

Sent via e-mail

Kris Van Lengen, MPA, JD, AICP
Community Planning Manager, Collier County
2800 N. Horseshoe Dr.
Naples, FL 34104

RE: Collier County Rural Lands Stewardship Area (RLSA) Restudy RLSA Group 1, Group 2, and Group 3 policies

Dear Mr. Van Lengen,

The Florida Wildlife Federation (Federation) offers the following comments on Rural Lands Stewardship Area (RLSA) Overlay Restudy for the RLSA Group 1, Group 2, and Group 3 policies.

It is well known that existing public lands across Southwest Florida are insufficient to support a growing panther population. Loss of habitat due to development across private lands contributes to increased panther mortality through both intraspecific aggression and motor vehicle collisions. Collier County is not immune to population growth. With large swaths of developable private lands in eastern Collier County, the future of this species is dependent upon land-use decisions made today.

History of the Federation and the RLSA

The Federation has long been involved in habitat conservation in Collier County; the Southwest Florida office opened its doors in 1994 with a mission to obtain comprehensive land-use planning that protects a network of conservation lands and contributes to the recovery of the Florida panther. In the review of the Collier County Growth Management Plan (GMP), the Florida Department of Community Affairs (DCA) appropriately determined that the Collier County GMP was not in compliance with regard protection of natural resources, listed species and their habitats, groundwater recharge areas, as well as addressing how to limit urban sprawl. Accordingly the Federation was one of two environmental groups that intervened in the legal process on behalf of the DCA. In March 1999, the Administrative Law Judge

issued his Recommended Order concurring with DCA and the Federation, and the Final Order was issued on June 22, 1999.¹ This Final Order required Collier County to prepare an Assessment of the rural, eastern lands and adopt GMP amendments by June 22, 2002 that would adequately address the issues raised (i.e.: natural resource protection, premature conversion of agricultural lands, urban sprawl). The eastern, rural lands were divided into two areas: the RLSA and the Rural Fringe Mixed Use District (RFMUD).

As such, the Federation has a vested interest in ensuring the intent of this Final Order is realized. The RLSA Overlay Restudy presents an opportunity to evaluate the RLSA program to ensure natural resource protection, retention of agricultural lands, and to prevent urban sprawl in this rural area of Collier County.

In this letter, the Federation provides detailed recommendations as they pertain to the Group 1, Group 2, and Group 3 policies of the RLSA. The Federation will subsequently submit further recommendations as they pertain to Group 4 and Group 5 policies.

Major policy Change Recommendations (Group 1, Group 2, and Group 3)

A 5-year review of the RLSA program presented several policy change recommendations to improve the program and the Federations supports the current restudy effort in considering these recommendations. The Federations also appreciates the County's effort for broad public input to further enhance the program. The Federation recommends the following to supplement and/or improve upon the 5-year review recommendations for Group 1, Group 2, and Group 3 policies.

Group 1 Policies:

Policy 1.6.1

This is a 5-year review recommended policy to establish Conditional Stewardship Easements and the Federation supports this recommendation.

Policy 1.7

This is amended in the 5-year review to include an additional entity to the Stewardship Easements. The Federation supports this amendment.

¹ Final Order No. AC-99-002

General Group 1 Policy Comments

Current restrictions and land management standards on existing Conditional Stewardship Easements and Permanent Stewardship Easements as articulated in the Group 1 policies do not provide enough specificity to ensure appropriate long-term management practices and to truly control and manage exotic species. Additionally, exotic control is a management practice, and as such, standards for controlling exotics should be a part of the Stewardship Easement agreement. **The Federation requests the County consider adding additional language to the Group 1 policies to strengthen the Stewardship Easements to include land management standards specific to exotic clearing and prescribed burning.** This language should include a **minimum standard for exotics management** (perhaps less than 20% exotics²).

Acknowledging that a landowner may need to carry out exotic removal and/or prescribed burning to be in compliance with these new easement management standards, **the Federation recommends the following: upon issuance of an SSA agreement, the landowner may have up to 2 years to submit an agency approved plan to control the level of exotics to meet the minimum easement standard. When a landowner executes the agency approved restoration plan and meets all associated success criteria, the landowner will then be in compliance with the SSA agreement and, hence, will be eligible for up to 1 Exotic Control Credit (EC Credit) on a sliding scale. This sliding scale ranges from .2 to 1 credit and is awarded based on percent exotic cover on a parcel or an area within a parcel as follows³:**

Percent Exotic Cover	Credit Potential
20-40%	.2 EC Credit
40-60%	.4 EC Credit
60-80%	.6 EC Credit
80-90%	.8 EC Credit
90-100%	1 EC Credit

Group 2 Policies:

The 5-year review recommended a major amendment to the Group 2 policies to eliminate the word ‘premature’ from the language. The Federation supports the

² The Federation recommends consultation with land management experts for an appropriate recommended minimum standard for exotic management

³ The Federation recommends consultation with land management experts for an appropriate sliding credit scale in relation to percent exotic cover.

recommended language change to ‘...retain land for agricultural activities...’ as it supports the goal of the Final Order ‘protect...agricultural lands’ and will allow for the continued viability of agriculture.

Group 3 Policies:

Policy 3.11

The 5-year review amended policy 3.11 to include several changes and additions to incentivize restoration. The credits associated with restoration in the RLSA are categorized as either R-1 Credits or R-2 Credits: R-1 Credits are restoration credits that a landowner can receive by simply designating land for restoration and R-2 Credits would be generated after the landowner carries out the associated restoration. The 5-year review recommended reducing the number of R-1 Credits from four to two credits per acre and the Federation is supportive of this change. **However, the Federation suggests the County restructure allocation of both R-1 and R-2 Credits in a phased approach as follows:**

- A total of two R-1 Credits shall be awarded, however, only the first R-1 Credit will be awarded at the time of designation **and** submittal of an agency approved restoration plan. The agency approved restoration plan must articulate if the subject land is eligible for the 3 phases of R-2 restoration described below: Hydrological Restoration, Flow-way Restoration, and Planting. The second R-1 Credit will be awarded only **after** the landowner carries out all phases eligible for restoration and meets all applicable success criteria articulated in the agency approved restoration plan.
- R-2 Credits shall be awarded for execution of native habitat restoration in a phased manner anywhere from 2-6 Credits per acre. This layered allocation of credits will better reflect the program’s intent to truly restore native habitat, wetlands, and flow-ways. The awarding of all R-2 Credits are contingent on the associated restoration activities meeting the applicable success criteria as determined by the permit agency authorizing said restoration and shall be awarded as each phase of restoration are completed. The phases of R-2 restoration activities are as follows⁴:
 - Phase 1: Hydrological restoration. If the agency approved restoration plan identifies land eligible for hydrologic restoration, activity is carried

⁴ Note that the Federation recommends moving restoration credits associated with exotic removal and prescribed burning to Group One policies. The are titled Exotic Control Credits (EC Credits) in this narrative in the Group 1 policies.

out, and all associated restoration meets agency success criteria, the landowner will be awarded two of the potential six R-2 Credits per acre restored. If hydrological restoration is not identified in the agency approved restoration plan, the owner will not be eligible for these two R-2 Credits.

- Phase 2: Flow-way restoration. If the agency approved restoration plan identifies an opportunity to restore a flow-way (i.e.: Camp Keais Strand and Okaloacoochee Slough), the associated restoration activity is carried out and meets agency success criteria, the landowner will be awarded *up to* two of the six total potential R-2 Credits upon completion of flow-way restoration.
 - It is important to note that flow-way restoration has two components: 1. Areas being actively restored (i.e.; the physical act of removing a road to restore a flow-way). 2. The area that benefits from the restoration work (i.e.; the acreage that will now be receiving water). The former will be called active flow-way restoration and the latter will be called passive flow-way restoration. Since there is a considerable difference in the cost and time associated with both active and passive flow-way restoration, two R-2 Credits per acre will be awarded for acres undergoing active flow-way restoration and one R-2 Credit will be awarded per acre for passive flow-way restoration.
- Phase 3: Planting. If the agency approved restoration plan identifies areas for native planting and a landowner carries out the associated planting and meets all associated success criteria from the permitted restoration plan, the owner will be awarded the last two of the six potential R-2 Credits per acre restored.
- The 5-year review recommended the addition of both panther corridor restoration credits and seasonal shallow wetland habitat restoration credits. Understanding that these restoration types are difficult, yet imperative for wildlife, the Federation supports incentivizing these specific types of restoration. Panther corridor restoration credits and seasonal shallow wetland habitat restoration credits are **alternatives** to the aforementioned R-1 and R-2 Credits and shall be awarded in a phased manner as the necessary restoration activities are carried out.
 - Panther Corridor Restoration Credits: There shall be four potential R-1 Credits and six potential R-2 Credits associated with panther corridor restoration.

determined by the permit agency authorizing said restoration and are awarded as each phase of restoration are completed. Issuance of the R-2 credits must be phased as follows:

- Phase 1: Hydrological Restoration. If the agency approved restoration plan identifies land eligible for hydrologic restoration specific to shallow seasonal wetland habitat, activity is carried out, and all associated restoration meets agency success criteria, the landowner will be awarded three of the potential six R-2 Credits per acre restored.
- Phase 2: Planting. If the agency approved restoration plan identifies areas for native planting, a landowner carries out the associated planting, and meets all associated success criteria from the permitted restoration plan, the owner will be awarded the last three of the six total potential R-2 Credits per acre restored.

In summary, the Federation recommends shifting all credits associated with exotic removal and burning to the Group 1 Policies. As noted, exotic control is a standard management practice, and therefore, credits associated with meeting management standards are more appropriately discussed in the Group 1 Policies. Restoration, as it pertains to hydrological restoration, flow-way restoration, and native planting are appropriately articulated in the Group 3 Policies. The Federation recommends phasing all R-2 credits as articulated above. According to this recommendation, in general, there shall be no more than 8 Restoration Credits (R-1 and R-2 Credits combined) that can be awarded per acre in FSAs or HSAs.

It is important to note that the Federation supports the 5-year review notion that panther corridor and shallow seasonal wetland habitat types are difficult to restore. Given this information and the fact that the potential area for such unique restoration opportunities is not expansive across the RLSA, the Federation outlined a unique R-1 and R-2 Credit allocation recommendation. This recommendation, unique to *only* panther corridor and shallow seasonal wetland restoration, would result in a total credit potential of up to 10 Restoration Credits (R-1 and R-2 Credits combined) that can be awarded per acre for *only* areas eligible for such restoration. This unique allocation is outlined above.

The Federation also recommends that within any area proposed for restoration, Land Use Layers 1-7 must be removed. In the current program, Land Use Layer 7 can remain active in an area proposed for restoration. **The Federation recommends the following: If a landowner designates land for restoration and the agency approved restoration plan indicates that restoration activity will be *enhanced* by retaining the 7th Land Use Layer, the landowner shall be given the opportunity to petition the Board of County Commissioners to request a that their land retain the 7th Land Use Layer. However, unless the agency approved restoration plan indicates that passive agriculture will, in fact, enhance the restoration activities, the Federation recommends that this Land Use Layer be removed.**

Lastly, policy 3.11 speaks to landowners not being precluded from other forms of compensation for restoration which may be addressed through public-private partnership agreement such as a developer contribution agreement or stewardship agreement between the parties involved. The 5-year review recommendation added that this would include private and publicly funded restoration programs such as the federal Farm Bill conservation programs. **However, if a landowner is already participating in such agreements/programs, and, therefore, any part of an SSA is already restricted under an easement, the Federation recommends that any credits associated with SSA designation (Base Credits) for such a parcel be reflected by the limited land-use rights that are already in effect on the parcel. Therefore, the SSA designation will not result in any Base Credit generation, however, the above mentioned activities that can generate EC Credits, R-1 Credits, and/or R-2 can be executed in exchange for the associated credits on such parcels.**

Additionally, if a landowner has a Conditional Easement for an SSA, the Federation recommends the County articulate in RLSA Policies that it is the landowner's responsibility to declare the existence of such a conditional SSA to any other entity that wishes to enter into an agreement/program to compensate the landowner for restoration activities.

Policy 3.13

The 5-year review recommended an amendment to this policy to include language stating that if a WRA is used as a primary treatment for water management for an SRA, then that WRA acreage will be included in the SRA. The Federation supports this recommendation.

Closing Remarks

The Federation has a vested interest in ensuring natural resource protection and preserving habitat for wildlife. With that in mind, the recommended credit systems articulated in this letter are intended to truly effectuate stewardship for eastern Collier County, and not inflate the potential available credits that can be used to entitle development. With the various paths landowners may take to obtain credits in the above recommendations, it is imperative to consider the total potential development acreage associated with these credits. The Federation recommends the County deeply analyze the potential credit generation from these recommendations (Base Credits + EC Credits + R1 Credits + R2 Credits). The RLSA program aims to achieve a balance between preserving and restoring land and development interests in Eastern Collier County. Understanding that the suggested/recommended credit allocation may disrupt this balance, the Federation requests the County recalibrate the value of credits to coincide with the appropriate SRA acreage cap⁵.

The Federation looks forward to submitting further comments as they pertain to Group 4 and Group 5 RLSA policies. If you have any questions or follow-up regarding our recommendations for Group 1, Group 2, or Group 3 policies, please do not hesitate to reach out to me at meredithb@fwfonline.org or 239-643-4111.

Sincerely,



Meredith Budd
Southwest Florida Field Representative

⁵ Policy 4.2 recommends an SRA acreage cap of 45,000 acres. The Federation looks forward to submitting comments and recommendations on Group 4 and Group 5 policies, but please note that the Federation is supportive of the 5-year review recommendation to cap SRA development acreage.