

**Palm Beach County
Summary White Paper
Type III Excavation (Mining) in the Everglades Agricultural Area**
(Updated 12-08-10)

Introduction:

The purpose of this White Paper is to provide a general summary of: recent events related to objections to approvals for Mining in the Palm Beach County Everglades Agricultural Area (EAA), Planning and Zoning requirements for Mining approvals, and the current plan of action to address direction from the Board of County Commissioners to attempt to reach consensus between various stakeholders.

Background and Summary:

General History: The Glades Region in Palm Beach County is an important component of the Everglades Ecosystem, including the Everglades Agricultural Area (EAA), which is within the Glades Tier as identified by the County's Comprehensive Plan (Plan). The EAA boundaries include the three cities around Lake Okeechobee and nearby residential settlements, and the vast land area traditionally dedicated to agricultural production. Other uses include: several state, regional and local facilities including penitentiaries, government offices, and the Belle Glade regional hospital and regional water supply facilities; commercial rock mining and other types of excavations; agricultural processing plants; industrial parks; tourism driven recreational amenities; and two small airports, among others.

From the land use planning perspective, with the exception of the cities and the urban service area around them, the majority of the EAA has the same future land use designation and Zoning district, known as "Agricultural Production" (AP). This has been in place since the adoption of the 1957 Zoning Code through today's Comprehensive Plan and Unified Land Development Code (ULDC). In addition to agriculture, the AP designation and accompanying regulations allows for several non-agricultural uses that are permitted through the Zoning process, including commercial rock mining.

During the last two decades prior to 2006, there were only three commercial rock mines approved in the EAA, with only two of them in operation as of to-date. Agricultural excavations and excavations related to implementation of regional water management projects continue to be permitted in the region as well. In more recent years, multiple applications and mining approvals in the EAA have been processed by the County. During this period, several mining operations in the Miami-Dade area have been affected by ongoing litigation. Also, a recent mining study prepared by the Florida Department of Transportation shows the EAA as one of the prime areas in the State of Florida with potential for rock mining. As a result, during the last few years more than 20,000 acres have been approved for mining through Conditional Use approvals, which gives limited discretion to the Board of County Commissioners (BCC) when considering these applications (see Exhibit I).

Current Status: Since the approval of the Stewart Mine in 2006, the BCC has discussed and taken action on alternatives to better address mining in the County. These include participating in the Strategic Aggregates Review Task Force (SARTF) that provided State-wide recommendations to the legislature, and conducting a regional Mining Summit which resulted in various local recommendations including the completion of a Permitting Review Study. Recommendations to adjust the local permitting process have since been implemented.

A BCC workshop was conducted in early 2010, where staff presented several options, including: continuation of the current process; amendments to the Plan; amendments to the ULDC to

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address additional concerns; limiting mines in certain areas of the EAA; and, establishing a moratorium on commercial rock mining. The Board directed staff to bring back an Ordinance to establish a moratorium with the purpose of allowing time for either Plan or ULDC amendments. On June 22, 2010, PZ&B and County Administration conducted a meeting with EAA stakeholders where these options were discussed.

On July 21, 2010, Planning staff presented proposed amendments to the Plan to modify the Future Land Use Element to provide the BCC with more discretion when reviewing requests for commercial rock mining by requiring the creation of a Mining specific Zoning district and other related criteria or standards. The Board indicated that amendments to the Plan were not warranted and directed staff to present additional background and information at the scheduled Adoption Hearing for the Moratorium.

On August 26, 2010, staff presented the Moratorium for adoption along with a summary of various regulatory issues associated with mining approvals, including both State and local permitting and environmental requirements. The BCC adopted Ord. 2010-023, establishing a one year moratorium on mining in the EAA, and directed staff to seek a University affiliated facilitator to assist County staff and stakeholders who have an interest in mining in unincorporated PBC.

Current ULDC Approval Process for Type III Excavation:

In accordance with the Plan, the ULDC currently allows for Type III Excavation (Mining) in the Urban Suburban (U/S) Tier (which includes the Urban Service Area [USA] of the Glades Tier) in limited Commercial or Industrial Zoning districts; the Exurban and Rural Tiers within the Agricultural Residential (AR) Zoning District; and in the Glades Tier within the Agriculture Production (AP) Zoning District. In all instances, Mining is only permitted if approved by the BCC as a Class A Conditional or Requested Use. Conditional Use approval requires that the BCC consider the following nine standards:

1. Consistency with the Plan;
2. Consistency with the Code;
3. Compatibility with Surrounding Uses;
4. Design Minimizes Adverse Impact;
5. Design Minimizes Environmental Impact;
6. Development Patterns;
7. Consistency with Neighborhood Plans;
8. Adequate Public Facilities (Concurrency); and,
9. Changed Conditions and Circumstances.

This essentially requires that the applicant demonstrate that a proposed mining operation would be able to address all local development standards, including local environmental requirements. As previously noted above, pursuant to the Mining Summit additional pre-application submittal requirements were established to improve coordination with State permitting agencies. This includes a pre-application check list to establish the information to be used as the basis for a pre-application meeting with the Department of Environmental Protection (DEP), and a subsequent requirement to obtain a Preliminary Assessment Letter (PAL) from the DEP, Bureau of Mines and Minerals. Concurrent with submittal of a Zoning application, duplicate copies must also be forwarded to applicable water control or water management districts.

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Any application which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved. However, typically where a use is permitted through Conditional Use Approval, most applicants can attain compliance with the requisite standards through voluntary or imposed Conditions of Approval that mitigate any potential inconsistencies or issues or revocation of approvals if required permits from State agencies are not obtained.

As noted by County Planning staff in their July 21, 2010 presentation to the BCC, the current Conditional Use approval process for mining limits opportunities to develop a strategy to allow for the orderly management of the future of this important region. Although the County recognizes the importance of the EAA for rock mining, the County also has the obligation of balancing the needs for aggregate with other state priorities like the preservation of agriculture and the restoration of the Everglades, which have been recognized as local priorities by the BCC and stakeholders in the region, and have been incorporated into the Plan.

Summary of Stakeholder/County Suggested Revisions to Mining in EAA:

Over the past four years, several dozen stakeholders have indicated their desire to participate in any discussions or decision making that might result in changes to how the BCC approves new or regulates existing mining approvals. While participants have represented a diverse range of interests, most can be categorized under the general classifications of the following:

- Environmental Organizations
- Mine, Farm or Other Affected Property Owners
- Representatives/Planners/Attorneys
- Neighborhood Representatives
- Glades Area Representatives
- Various Federal, State and local government agencies representing permitting, Everglades restoration efforts, Glades area economic development interests, among others.

The following summarizes several of the more vocal recommendations that have been suggested to date for mining in the EAA. Note that in some instances advocates for changes to the current approval process indicate that some recommendations may be applied concurrently:

1. Prohibit new mining approvals;
2. Detailed Cumulative Impact Study;
3. Require a detailed study of the EAA to ascertain the location of potential mining areas;
4. Require coordination with the South Florida Water Management District (SFWMD) to prohibit any mining that may conflict with Everglades restoration efforts;
5. Coordinate with the State to identify Statewide needs for excavated materials needed for road construction or other permitted uses;
6. Amend the Plan to establish a Mining future land use (FLU) designation and related Policies;
7. Amend the ULDC to establish a Mining Zoning district; and,
8. The process is adequate, do not change.

As discussed at the August 26, 2010 Public Hearing, staff summarized that additional detailed studies over what has currently been undertaken would be unlikely due to insufficient availability

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of public funding or limitations of geological or hydrologic studies where access to private property may not be attainable. Additionally, it was noted that there was a need for increased dialogue from the SFWMD to better identify lands that may be targeted for future Everglades restoration efforts.

With regard to recommendations to amend the approval process through the Plan – representatives of existing mining interests or landowners were opposed to changes to the Plan, suggesting to the BCC that this would reduce the County’s authority to render final decisions of approval due to State oversight in the Planning process. Similar objections were made to efforts to establish additional ULDC standards or a Mining specific Zoning district. Several environmental groups were in favor of Plan changes and related Zoning modifications.

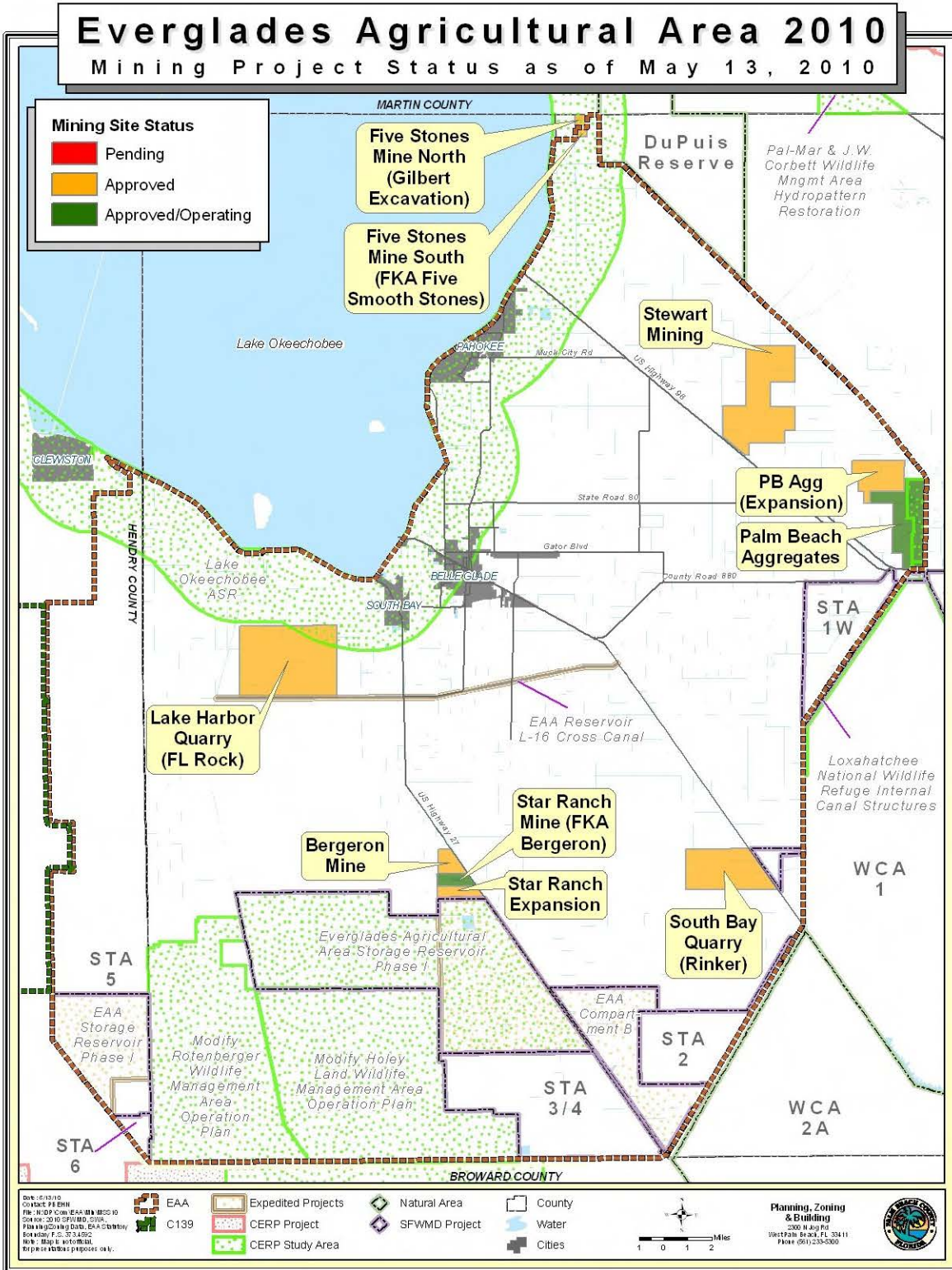
Plan of Action:

On November 30, 2010, the BCC approved contracts with Rafael Montalvo and Jean Scott, with assistance from Jim Murley, to provide facilitation and staffing assistance through a series of up to four consensus building public workshops and subsequent participation in the presenting recommendations and findings to the BCC at a workshop, to the Land Development Regulation Advisory Board (LDRAB), and at BCC public hearings for ULDC amendments, where applicable.

DATE	MEETING/HEARING
January 2011	Consensus Building Workshop #1
February 2011	Consensus Building Workshop #2
February/March 2011	BCC Workshop: Review Recommendations / Findings of Consensus Building Workshops
March 2011	Consensus Building Workshop #3
April 2011	Consensus Building Workshop #4 (Optional)
May 25, 2011	Land Development Regulation Advisory Board (LDRAB)
June 22, 2011	BCC Zoning Hearing: Request for Permission to Advertise
July 27, 2011	BCC Zoning Hearing: 1 st Reading
August 24, 2011	BCC Zoning Hearing: 2nd Reading - Adoption
September 2011	Effective Date of ULDC Amendments Mining Moratorium Expires

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Exhibit I



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Exhibit I (Continued)

**Everglades Agricultural Area
Mining Projects as of May 13, 2010**

	Status	AKA	Application	Control Number	Resolution ²	Date of Approval	Duration of Mining	Total Acres Mined	Total Acres Approved to Excavate ¹
Bergeron	Approved	N/A	CA-2007-01199	2007-00346	R-2008-930	5/22/2008	9 years until 2016 (73.7 acres/year)	0	472 of 553
Star Ranch	Approved/ Operating	N/A	N/A	1978-00099	R-1978-877	7/18/1978 (SE)	30 years until 2018 (approved 1978) (13 acres/year)	392	392 (reported 201.5 of 473.7)
Star Ranch Expansion	Approved	N/A	DOA 2008-1677	1978-00099	R-2009-1829	10/22/2009	8 years (2018-2025) (100 acres/year)	0	444.9 of 581.9
Five Stones Mine North	Approved	Gilbert Excavation & Boose/Burk	N/A	Tr A-1974-0164 Tr B-1975-0167	R-1974-968 R-1975-955	Tr A-11/26/1974 Tr A-12/30/1975	20 years	0	57 of 161
Five Stones Mine South	Approved	Five Smooth Stones	DRO2008-1530	2003-00100	R-2004-2424	5/14/2009	7.8 years (10 acres yr)	0	78 of 121
Lake Harbor Quarry	Approved	FL Rock	CA 2007 00205	2007 00054	R 2008 708	4/24/2008 (Zoning)	74 years until 2083 (95 acres yr)	0	7,036 of 7,629
Palm Beach Aggregates	Approved/ Operating	GKK (W. Co. Energy Center, FPL), aka Flor-Ag	N/A	1989-00052	R-89-2225	12/12/1989 (SE/Zoning)	33.5 years (80 acres yr)	1,300	3,437 projection 4,047
Palm Beach Aggregates Expansion	Approved	N/A	DOA 2009-4535	1989-00052	R-2010-0684	4/22/2010	17 years (2011-2028)	0	1,640 of 2,393
South Bay Quarry	Approved	Rinker	CA 2006-01930	2006-00554	R-2008-707	4/24/2008 (Zoning)	38 years until 2049 (79.3 acres yr)	0	3,014 of 3,774
Stewart Mining Industries	Approved	N/A	CA 2005 1331	2005 00450	R 2006 931	5/25/2006 (DRO)	40 years until 2055 (90 acres yr)	0	3,595 of 5,420
Total:								1,692	19,765.90 of 25,153.60

¹ Total Number of Acres approved to excavate of the total number of acres approved for the total project. Remaining acres are left for the setback, rights-of-way, etc.

² All Resolutions available in Zoning's Directory U/Zoning/Temp docs/Excavation/PBA project activity & resos