

·Audubon of Florida · Audubon of Southwest Florida
·Conservancy of Southwest Florida · Copperleaf
·Corkscrew Road Rural Community ·Estero Civic Association
·Estero Council of Community Leaders · Florida Wildlife Federation
·Lee County Council of Civic Associations, Inc.
·Lighthouse Bay at the Brooks · National Wildlife Federation
·Pelican Sound ·Responsible Growth Management Coalition
·River Club ·Shadow Wood Community Association
·Spring Run

February 26, 2008

Senator Burt Saunders
Chairman, Senate Committee on Environmental Preservation and Conservation
Room 418
Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

VIA: E-MAIL AND U.S. MAIL

RE: State Strategic Aggregate Review Task Force Final Report

Dear Senator Saunders:

The undersigned environmental and community organizations request that any draft legislation relating to aggregate mining be reviewed by your Committee on Environmental Preservation and Conservation. Our organizations are concerned that legislation will be proposed during the 2008 Legislative Session authorizing state preemption of local control over land use planning for, and approval of, aggregate mines. Such legislation, if passed into law, would severely limit the ability of local government to determine if a mining application is consistent with local land use regulations. In some cases this would impede a local government's ability to protect its economic base and essential assets. As aggregate mining impacts many of our natural resources, review by your committee is not only appropriate but essential. We ask that you request Senate President Ken Pruitt to direct all mine legislation to the Senate Environmental Preservation and Conservation Committee for review and approval.

During the 2007 Legislative Session, HB 985 and SB 2784 contained provisions establishing a State Strategic Aggregates Review Task Force (Task Force).

While initial iterations of the legislation contained language that would have preempted local governments' authority to prohibit future mining through Comprehensive Plan amendments, mining permits or moratoria, this language was eventually removed and the approved legislation was less onerous. The Senate version died but HB 985 became law.

This legislation was initiated partly in response to the Federal court's Lake Belt decision that was considered disruptive to the supply of FDOT-grade aggregate. The official mandate of the Task Force was to evaluate the availability and disposition of construction aggregate materials and related mining and land use practices in Florida. The Task Force mandate did not include consideration of environmental and other mining impacts.

The Task Force met in a series of meetings during December 2007 and January 2008. On February 1st the Final Report of the Task Force was presented to the Governor and the legislative leaders. In addition the Task Force Chairman has agreed to present the Task Force's recommendations to the House Committee on Infrastructure this month.

Our organizations were pleased that the Task Force Report presents a wide spectrum of non-consensus recommendations regarding how the mine authorization decisions and regulation should be determined. However, while there was no consensus position from the Task Force on the issue of state preemption, many of the non-consensus recommendations would result in preemption of existing local government authority. We are concerned that legislation will be initiated, probably in the House, that will preempt local governments' ability to require and enforce natural resource and environmental protection standards in local land use plans and regulations applicable to mining. Our organizations provided written comments and public testimony during the Task Force meetings. It was our hope that the Task Force would recommend a framework that would proactively plan for the supply of aggregate necessary for our future growth and infrastructure needs while protecting our environmentally sensitive lands, maintaining our dwindling water resources and assuring our quality of life. In order to resolve the aggregate supply and demand issues, we asked that the Task Force recommend an in-depth effort that would assess a number of issues, including:

- Where each of the grades of aggregate are located statewide,
- How much of each grade of aggregate has been permitted to be mined,
- A need (demand) versus supply assessment for each grade of aggregate with a clear definition of what constitutes need (demand),
- Increased research and understanding about environmental conditions, water issues and how mines impact both surface and groundwater resources,
- An acknowledgment that some grades of aggregate constitute a finite resource,

- Increased research on material resources that are possible substitutes for aggregate, and
- Better regional planning that will decrease the need for new road corridors.

Once all of the necessary information has been gathered, then it would be appropriate to explore where mining should be planned and where it should be restricted. However, under no circumstance should state preemption of local authority for regulation of mining be allowed, as that would remove local governments from the process and could open up vast areas for mining without regard to natural resource and environmental protection – including local economic viability based on these protections -- or the impact upon adjacent properties and residential neighbors.

We appreciate the time and effort that the Task Force volunteered over the past several months to comprehensively review a number of issues regarding aggregate. However, many of the questions surrounding supply, demand, location of resources, alternative materials and the proper mechanism for strategic planning of future resource extraction could not be answered given the limited timeframe in which the Task Force met. As a result many members of the Task Force suggested further study prior to enactment of many of their recommendations.

The Task Force has consensus on the creation of a Strategic Aggregate Resource Assessment (SARA) to collect and analyze data on our aggregate resources. We support the initiation of such an assessment, if participation includes the Environmental Protection Agency, Fish and Wildlife Service, Florida Department of Community Affairs, Florida Fish and Wildlife Conservation Commission, Florida Department of Environmental Protection, all of the Water Management Districts, local governments, environmental organizations and other interested stakeholders.

Mining creates a multitude of impacts, both on and off site, and is one of the more intensive and least reversible land uses. Our future water supply and quality, protection of natural resources and quality of life depend on the State providing an effective balance between local regulations and state oversight. While our concern is focused on the possibility that some form of preemption will be proposed during the 2008 Legislative Session, we also believe there is an opportunity for the state to proactively collect essential information on the supply of aggregate, its location and the natural resource and environmental conditions surrounding each supply area. As the Committee charged with oversight on protection and conservation of our environmental resources, we ask that you request all legislation resulting from the Task Force's Final Report be sent to your Committee for review.

If you have any questions, please contact Kevin Hill, Corkscrew Rural Community Planning Committee, at (239)-564-4225.

Sincerely,

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