



# Cemex/FGCU Mining Extension & Memorialization

Marsha Ellis  
Inner Loop Working Group  
DCI2021-00009

12/14/2022

## Concerns

Dust & Lights

Traffic Accountability & Compatibility

Public Safety & Welfare

Wetlands & Preserves

Habitat

Endangered Panther

Memorialization

Staff Approval Inconsistencies



d) Mine excavation planned developments must meet the following:

- 1) The mining activity will not create or cause adverse effects from dust, noise, lighting and odor on existing agricultural, residential, conservation activities, or other nearby land uses.

### Excerpt from pg. 24 Staff Report (conclusion)

Staff finds the proposed conditions appropriate for approval and as conditioned the public's interests are sufficiently addressed.

- c) That each requested deviation enhances the achievement of the objectives of the planned development; and preserves and promotes the general intent of this Code to protect the public health, safety, and welfare:

Staff recommends approval of nineteen deviations as detailed above.

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- 1) The mining activity will not create or cause adverse effects from dust, noise, lighting and odor on existing agricultural, residential, conservation activities, or other nearby land uses.

## Public Concerns

- **Dust from mine reduces visibility on Alico Road**
- **Buffers are inadequate**
- **Practices outdated**

Excerpt from pg. 24 Staff  
Report (conclusion)

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## Public Concerns

- Lights from mining at night disorient birds near airport
- Mining practices are outdated
- Buffers inadequate



<https://audubonportland.org> > Blog

### Dark Skies Help Birds Fly - Portland Audubon

Mar 28, 2022 — **Dark Skies Help Birds Fly ...** About 70% of North American birds are migratory, and over 80% of those migrate at night.

## Excerpts from Staff Report pg. 9

**Objective 47.2:** Development proposals for property located within the vicinity of existing or planned aviation facilities must be evaluated to ensure land use compatibility, to preclude hazards to aircraft operations, and to protect airport capacities and facilities. The applicant has requested the appropriate deviations from the Land Development Code to avoid creating a wildlife attractant and hazards that arise from wetlands or water bodies in accordance with the FAA requirements and **Policy 47.2.5.**

Airport Concerns (per letter included) :                      Noise    Lighting as hazard to aircraft



Birds in future reclamation buffer areas

Obtrusive excavation equipment

Blasting

The existing mining operation has been in existence since 1986 without adverse impact to the airport. (staff report)

MEMORANDUM

Date: November 9, 2022  
 To: B. Roberts  
 From: M. Evans  
 Subject: CEMEX Allico Quarry Extension Phase 3D Mine Excavation  
 Planned Development Re-Case No. DCL2021-0001  
 STRAP No. 06-

Purpose

The purpose of this memorandum is to provide information to the Development Services Section that relate to transportation issues. This memorandum does not constitute a traffic study report, since the applicant did not provide the site's materials process.

Applicant Proposed Deviations

Per the Lee County Land Development Code, the hearing examiner must find that the proposed development achieves the objective of the Code and promotes the general intent and welfare.

In the subject case, the applicant is requesting the following deviations from the requirements of the LDC:

Deviations 4-A

Deviations 4-A requests relief from the LDC's requirements for construction of infrastructure, including vehicular trips accessing the site.

Since the intent of the proposed mining operation is to

MEMORANDUM

The LDC, Section 12-116(1)(c) and (2), specifically requires the mine operator to contract with law enforcement personnel to "provide continuous monitoring of truck traffic entering and exiting the mine" and to "develop and enforce a truck hauling operation plan". To request a deviation from this LDC requirement may be viewed as unreasonable, since this code provision specifically relates to public safety. While the Lee County Sheriff's Office (LCSO) may or may not have a commercial vehicle enforcement division or staff specifically trained in this area, their law enforcement staff is trained and qualified to enforce motor vehicle-related laws. The LCSO is also the only law enforcement agency operating in unincorporated Lee County. The Florida Highway Patrol's Office of Commercial Vehicle Enforcement Troopers are empowered by current Florida statute "to require the driver of any commercial vehicle operated to stop and submit to an inspection and enforce the traffic laws of this state with an emphasis on violations committed by commercial vehicles" (see <https://www.flhwy.gov/florida-highway-patrol/commercial-vehicle-enforcement/>, for support information). Heavy Commercial Vehicle (HCV) have different size and open load capacity than passenger vehicles, and which may pose traffic safety issues, such as same motorway environment, braking distances, and and/or size as compared to passenger vehicles. Commercial vehicle enforcement is due to its higher ratio of promoting traffic safety.

Other mine sites have been required to comply with this portion of the LDC, and the general mining operations of this site appear no different from other approved mining sites. Requiring continuous traffic monitoring through the use of permanent count stations at this and other mine sites fosters transparency in that local/state agency staff and the public may be better aware of current and future mining operational changes that affect traffic volumes in the area at any given point in time. If this deviation request is approved, it may potentially set a precedent and send the wrong message to the general public that monitoring heavy truck traffic is unimportant and unnecessary with respect to promoting traffic safety, especially in a motorway environment where a high percent of heavy commercial vehicles share the road with passenger vehicles in this high-growth area of Lee County. In addition, if this deviation request is approved, this mine site will not consistently meet this and other LDC requirements that have been accepted by other mine excavation planned developments in Lee County.

The intent of this portion of the LDC appears to be for county staff to accurately monitor the volume and classification of daily mine-related traffic. This information may be used to determine if the mine is in compliance with LDC requirements for adequate, transportation infrastructure, and industrial uses access.

AC 11-4 "Turn Lane Policy" safety by allowing "for the protection of left and right turn lanes as needed in welders". Since continuous temporary counts that may be used to determine if this permanent count station is adequate. In addition, alternative location, and may business models in comparison to this mine may be future site-related planned mine operation permit requirements.

In addition, LDC Section 12-116(1)(c) "consistently monitor operator...[w]hich have a real

MEMORANDUM

precipitated by the mine activity" and help "determine whether certain actions or changes are appropriate to increase compatibility of ongoing mine activity with its surroundings."

Further, a continuous record of current and historic mine-related traffic counts may add law enforcement staff in targeting enforcement efforts and researching violations which helps promote and protect public safety and welfare.

It should be noted that since the original mine approvals in the late 1980s and early 1990s, land uses in proximity to the mine site have greatly changed, especially within the last few years. Starting with the approval of The Lee Plan amendments CPA2014-00004, Wildblue Allico West, and CPA2015-00001, Corkscrew Farms, the character of this area has changed from one with sparse residential development to one with multiple large residential and mixed-use planned developments along both Allico Road and Corkscrew Road. The land use changes in the area in proximity to the subject site are further noted in the May 22, 2019 technical assistance comment letter from the Florida Department of Transportation with respect to The Lee Plan amendment CPA2018-10014, Limerock Mining, which states as follows:

"As the coastal communities west of I-75 build-out, new residential and mixed-use development is spreading east of I-75 at a rapid pace. Many of these new developments are beginning to encroach within areas populated by existing mines. Most of these areas are currently served by a limited capacity roadway network resulting in heavy freight vehicles (dump trucks) and automobiles sharing lanes. The blending of dump trucks and local trips may create congestion and operational inefficiencies within the roadway network."

Deviations 5-A

Deviations 5-A requests relief from LDC, Section 12-116(c), which requires continuous truck hauling monitoring and enforcement, developing and enforcing a truck hauling operation plan, and maintaining, repairing, and replacing the site access within county-maintained road right-of-way.

Since the intent of the subject project is to combine all phases of the existing and proposed mining operations under a single approval, the applicant should be required to meet the requirements of this portion of the LDC. Lee County Zoning Resolution Z-13-026, Section 3.10, allows for transportation-related deviations from the LDC as specifically applied to mine traffic associated with Phase 3C and does not appear to apply to the entire mining operation as is considered in the subject project application.

Since both Deviations 4-A and 5-A appear interrelated, many of staff's above points with respect to Deviation 4-A equally apply to Deviation 5-A.

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MEMORANDUM

# Memorandum Traffic Elements Proposed Deviation Review

From:

M. Evans  
Senior Engineer

## Deviations 4-A

Deviation 4-A requests relief from LDC, Section 12-116(b)(2), which requires the construction of infrastructure, including permanent count stations, to monitor daily vehicular trips accessing the mine site.

“Since the intent of the subject project is to combine all phases of the existing proposed mining operations under a single approval, the applicant should be required to meet the requirement of this portion of the LDC.” (*underlined for emphasis by engineer reviewing deviations*)

- “determine adequacies of Alico road turn lanes”
- Increase compatibility of ongoing mine activity with the surroundings”
- “aid law enforcement”
- “promote and protect public safety and welfare”

- “land uses in proximity to the mine site have greatly changed”
- DOT comment: “The blending of dump trucks and local trips may create congesting and operational inefficiencies within the roadway network.”

Deviation 5-A

Deviation 5-A requests relief from LDC, Section 12-116(c), which requires continuous truck hauling monitoring and enforcement, developing and enforcing a truck hauling operation plan, and maintaining, repairing, and replacing the site access within county-maintained road right-of-way.

**“To request a deviation from this LDC requirement may be viewed as unreasonable, since this code provision specifically relates to public safety.”**

- “HVCs require longer acceleration and braking distances”
- “code provision assigns responsibility to maintain, repair, and replace infrastructure that primarily benefits the mine operator to said operator”

***“The Lee County taxpayer should not in any way be responsible for costs associated with the mine operator’s site-related improvements.”***

## Deviation 14-D

Deviation 14-D requests relief from LDC, Section 12-116(b)(1), which **requires left- and right-turn lanes at the mine access along Alico Road.**

- “turn lanes are required to protect public safety and welfare”

**“However, with recent land use changes in proximity ... increase to traffic volumes due to recent rapid residential and mixed-use planned development growth along the Alico Road and Corkscrew Road ... the need for a westbound Alico Road right-turn lane at the site access is likely of even greater importance to promote and protect public safety and welfare.”**



REQUEST FOR SUBMITTAL REQUIREMENT WAIVER FOR UNINCORPORATED AREAS ONLY

Upon written request, the Director may modify the submittal requirements for Public Hearings, Development Orders, Limited Review Development Orders and other Administrative Action Applications where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request and the Director's written response must accompany the application submitted and will become a part of the permanent file.

APPLICATION FOR WAIVER OF REQUIRED SUBMITTAL ITEMS (Indicate the appropriate application type)

- Public Hearing - General Requirements (34-202)
Public Hearing - Mining Excavation Planned Development (12-110)

Excerpt from Submittal Requirement Waiver Attachment

3A facility are required to accommodate the processing of material from Phase 3D and none will be requested by reason of this application. Based on the forgoing, a waiver is requested from the requirements of LDC Sec. 12-110(a)(7).

LAD-00-02, HFA DECISION #93-01-28-EAM-02, SEZ-2007-00006, and L-13-026, and under approved development orders LDO960509-03L, LDO2003-00414, DOS2004-00334, LDO2007-00214, LDO2015-000659, and DOS2015-00078. Waivers are requested from the following submittal requirements:

- 1. From LDC Section 12-110(a)(7) Transportation Impact Statement (TIS). The proposed extension of the CEMEX Alico North Quarry (Phase 3D) will not result in additional or new traffic impacts beyond those previously reviewed and approved in connection with the excavation authorized for Phases 3A, 3B and 3C and memorialized in existing Permits as listed above. All excavated material from Phase 3D will be processed at the existing material processing facility located in Phase 3A. No modifications to the Phase 3A facility are required to accommodate the processing of material from Phase 3D and none will be requested by reason of this application. Based on the forgoing, a waiver is requested from the requirements of LDC Sec. 12-110(a)(7).

A. SPECIFIC SECTION(S) AND REQUIREMENT(S) FOR WHICH A WAIVER IS SOUGHT:

Table with 3 columns: #, Section Number, Requirement. Rows include TIS, Environmental Assessment Report, Historical and Archaeological Data, Test Boring Data, Potable Water & Central Sewer.

**DANGER**



**INFOHAZARD**

Public Safety & Welfare  
Concerns

Staff Review  
Submittal  
Incomplete,  
Denied &  
Approved

Submittal  
Re-  
Evaluated &  
Revisited



# DCI2021-00009 CEMEX/FGCU MINING EXTENSION & MEMORIALIZATION

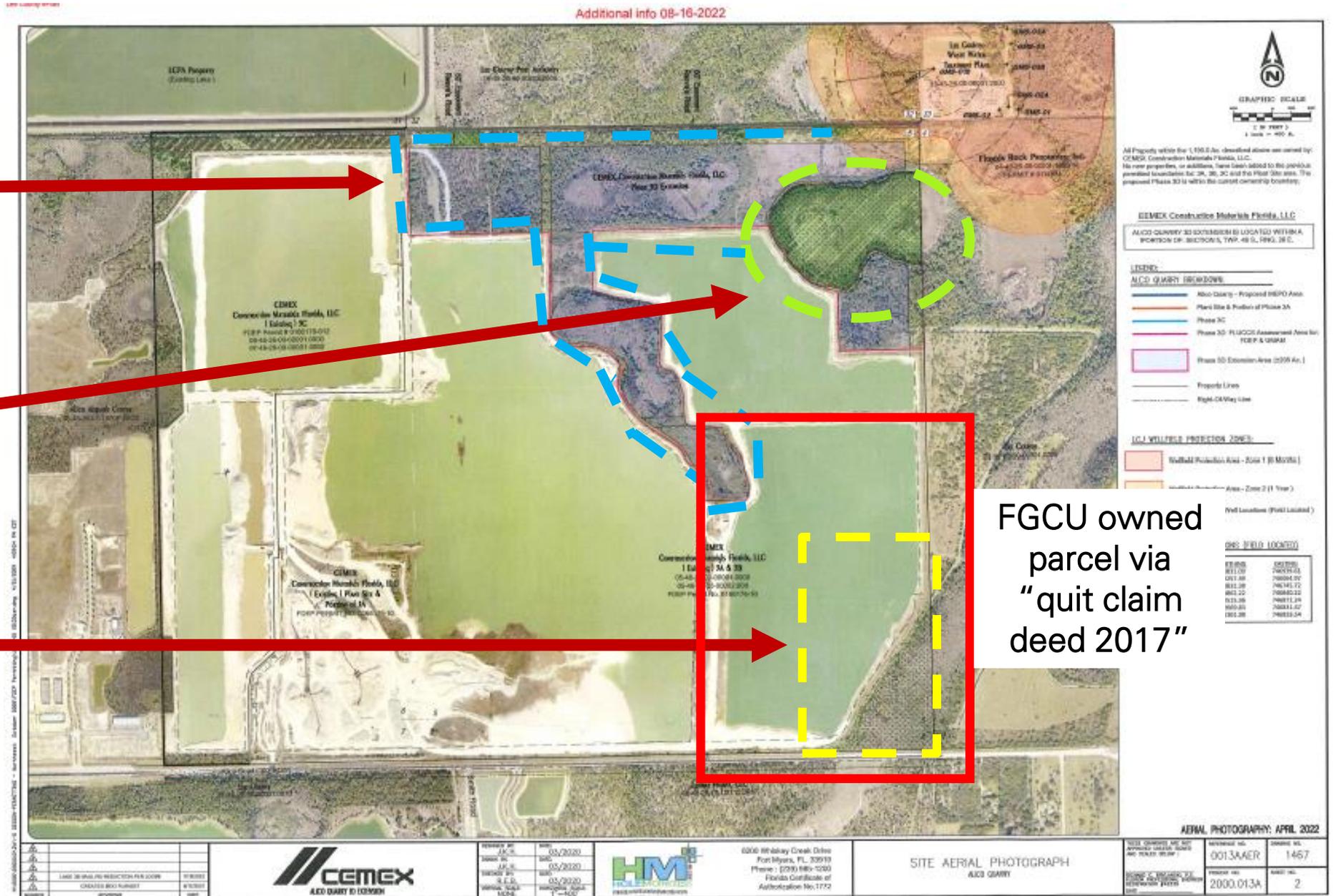
Previously Protected Wetlands & Preserves since 1993 now proposed to be mined



Proposed Indigenous Preserve 28.86 acres



18.5 acre Wild Blue flow-way tract owned by FGCU "non-phase undeveloped lands", Memorialize in Conservation.



d) Mine excavation planned developments must meet the following:

- 1) The mining activity will not create or cause adverse effects from dust, noise, lighting and odor on existing agricultural, residential, conservation activities, or other nearby land uses.

The proposed rezoning includes areas of ongoing natural resource extraction and processing. The Phase 3D expansion is proposed on lands previously approved for mining operations and will provide flow way connections and wildlife corridors and habitat.

Accordingly, and based on the foregoing, a waiver is requested from the requirements of LDC Section 12-110 (a)(21) a., b., c., and k. as the same might otherwise apply to Phase 3A, 3B or 3C. The southeast corner of the site within Phase 3B and shown as “Non-phase Undeveloped Lands” totaling approx. 18.5-acre will remain as is – it will not be added to excavation areas and will not be designated as an indigenous preserve. Subsections d. – j. will be addressed in the application for all phases of the mine.

Excerpt directly above from  
Submittal Requirement Waiver  
Attachment

**Flow-way into  
Wild Blue**



# DCI2021-00009 CEMEX/FGCU MINING EXTENSION & MEMORIALIZATION

Previously Protected Wetlands & Preserves since 1993 now proposed to be mined

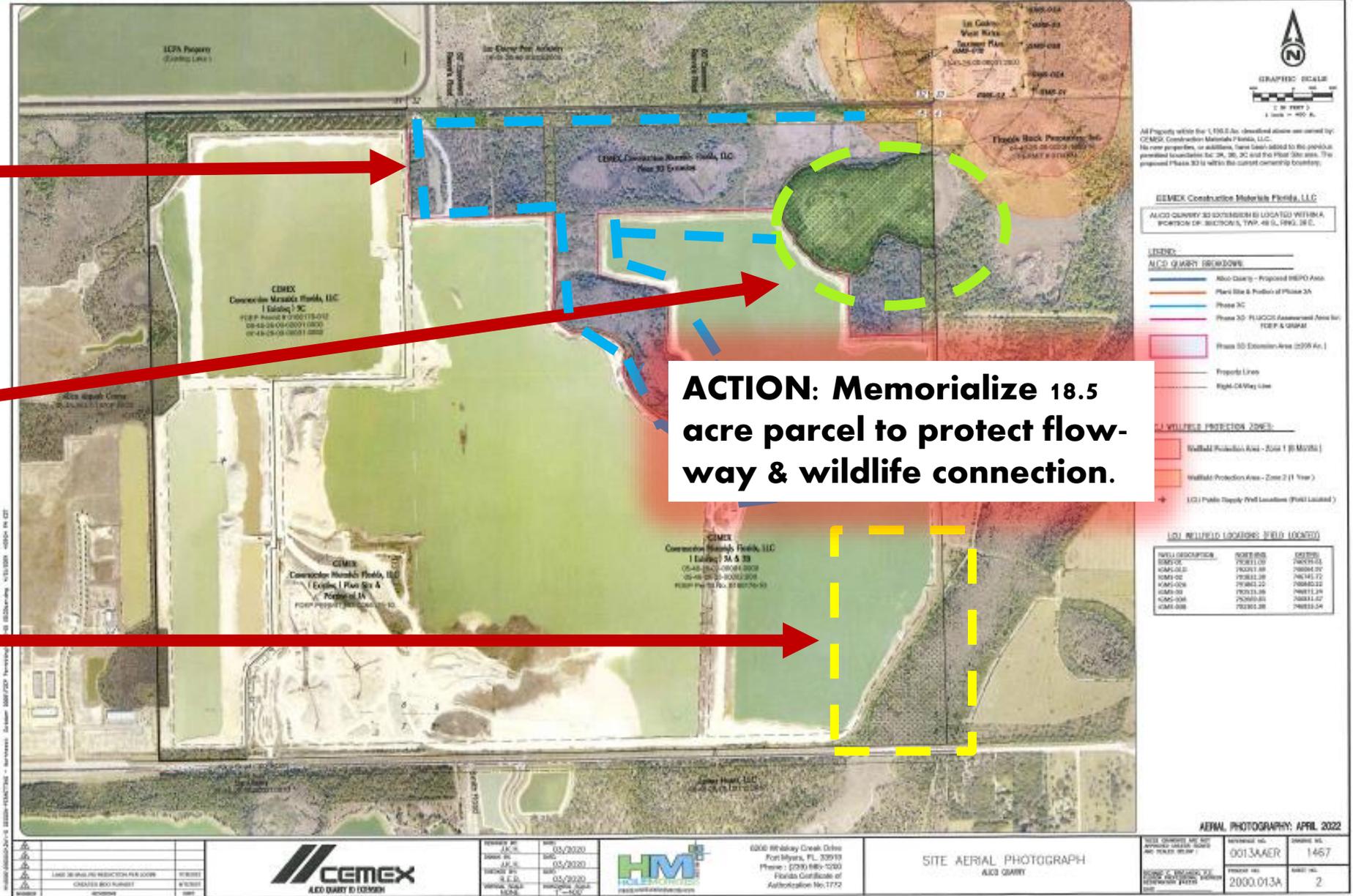


Proposed Indigenous Preserve 28.86 acres



18.5 acre Wild Blue flow-way tract owned by FGCU "non-phase undeveloped lands", Memorialize in Conservation.

Additional info 08-16-2022



**ACTION: Memorialize 18.5 acre parcel to protect flow-way & wildlife connection.**

All Property within the 1,100.00 Acre described above was owned by CEMEX Construction Materials Florida, LLC. No new properties, or additions, have been added to the previous provided boundaries for 2A, 3B, 3C and the Final Site area. The proposed Phase 3D is within the current operating boundary.

**CEMEX Construction Materials Florida, LLC**  
 AUCO QUARRY 3D EXHIBITION IS LOCATED WITHIN A PROPERTY OF: SECTION 04, TWP. 48 S., R9E, 36 E.

- LEGEND:**
- AUCO QUARRY BOUNDARIES:**
- Blue Dashed - Proposed NEPO Area
  - Orange Line & Points of Phase 2A
  - Blue Line - Phase 3C
  - Red Line - Phase 3D - FLGCC Assessment Area for EEP & GRAM
  - Yellow Dashed - Phase 3D Extension Area (2008 Ac.)
  - Black Line - Property Lines
  - Grey Line - Right-of-Way Line

- WILDLIFE PROTECTION ZONES:**
- Red Dashed - Wildlife Protection Area - Zone 1 (8 Months)
  - Orange Dashed - Wildlife Protection Area - Zone 2 (1 Year)
  - Black Arrow - LCQ Public Supply Well Locations (PUBS Located)

**LCQ WELLFIELD LOCATIONS (FIELD LOCATIONS)**

WELL DESCRIPTION	NORTH BOUNDARY	EAST BOUNDARY
WMP-01	752811.00	746141.00
WMP-02	752811.00	746141.00
WMP-03	752811.00	746141.00
WMP-04	752811.00	746141.00
WMP-05	752811.00	746141.00
WMP-06	752811.00	746141.00
WMP-07	752811.00	746141.00

AERIAL PHOTOGRAPHY: APRIL 2022

<p>DATE: 05/20/20</p> <p>DATE: 05/20/20</p> <p>DATE: 05/20/20</p> <p>DATE: 05/20/20</p>	<p>CEMEX AUCO QUARRY 3D EXHIBITION</p>	<p>HM HILLMAN MAPPING</p>	<p>6000 Highway Creek Drive                  Fort Myers, FL 33919                  Phone: (239) 480-5000                  Florida Certificate of                  Application No. 1772</p>	<p>SITE AERIAL PHOTOGRAPH                  AUCO QUARRY</p>	<p>PROJECT NO: 2000.013A</p> <p>SHEET NO: 1467</p> <p>SHEET TOTAL: 2</p>
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2) The Applicant has given special consideration to the protection of surrounding private and publicly owned conservation and preservation lands. The applicant is providing onsite indigenous areas and wetland preservation areas onsite. Site buffering will be consistent with previous approvals. Wetland 200 will maintain a connection to the offsite flow way to the east.

**REBUTTAL: The wetlands and indigenous areas were pre-existing & set aside in 1993 as a condition of permit. In whole, mining previously monitored areas set aside DOES NOT preserve, restore or enhance the wetlands and flow-way and is a grievous REDUCTION of ecological function in a CONNECTOR area.**

3) Approval of the request:

- i. Will maintain the identified wet and dry season water level elevations and hydro periods necessary to restore and sustain water resources and adjacent wetland hydrology on and off-site during and upon completion of the mining operations; The applicant has provided hydrologic modeling and measures including a spreader swale system and wetland monitoring to ensure that water elevations are maintained and mitigated.
- ii. Will serve to preserve, restore and enhance natural flow ways deemed important for local or regional water resource management. The proposed plan maintains a hydrologic connection between Wetland 200 and the flow way adjacent to the site to the east.

The design incorporates top of berm elevations so that runoff will be retained within the mining impoundments. This will eliminate any off site runoff, improve water quality and nutrient reduction and provide groundwater recharge.

This impact will be minimized through the use of a spreader swale/recharge trench system and a wetland monitoring program to ensure that no negative impacts occur.

**NOT REASSURED**

# Environmental Staff Concerns: Impacts to Wetland 200 & Wild Blue Flow-Way

Excerpt from pg.13 Staff Report

with LDC Section 12-113. The restoration plan includes exotic removal and restoration plant materials proposed to be installed in the preserves to provide habitat for wildlife. Environmental Staff did have concerns during the review process regarding the hydroperiods being affected by the mining operation. Specifically, the drawdown associated with Wetland 200, as detailed in the natural resource considerations above and shown in the groundwater models provided by the applicant. The data provided shows that Wetland 200 will be hydrated during the wet season, however, there is an anticipated drop of 0.5 feet associated with the dry season. This impact will be minimized through the use of a spreader swale/recharge trench system and a wetland monitoring program to ensure that no negative impacts occur. These requirements are included in condition 11 of the Recommended Conditions and Deviations (Attachment "D").

**Where is the spreader swale/recharge trench system located?**

# DCI2021-00009 CEMEX/FGCU MINING EXTENSION & MEMORIALIZATION

Additional info 08-16-2022

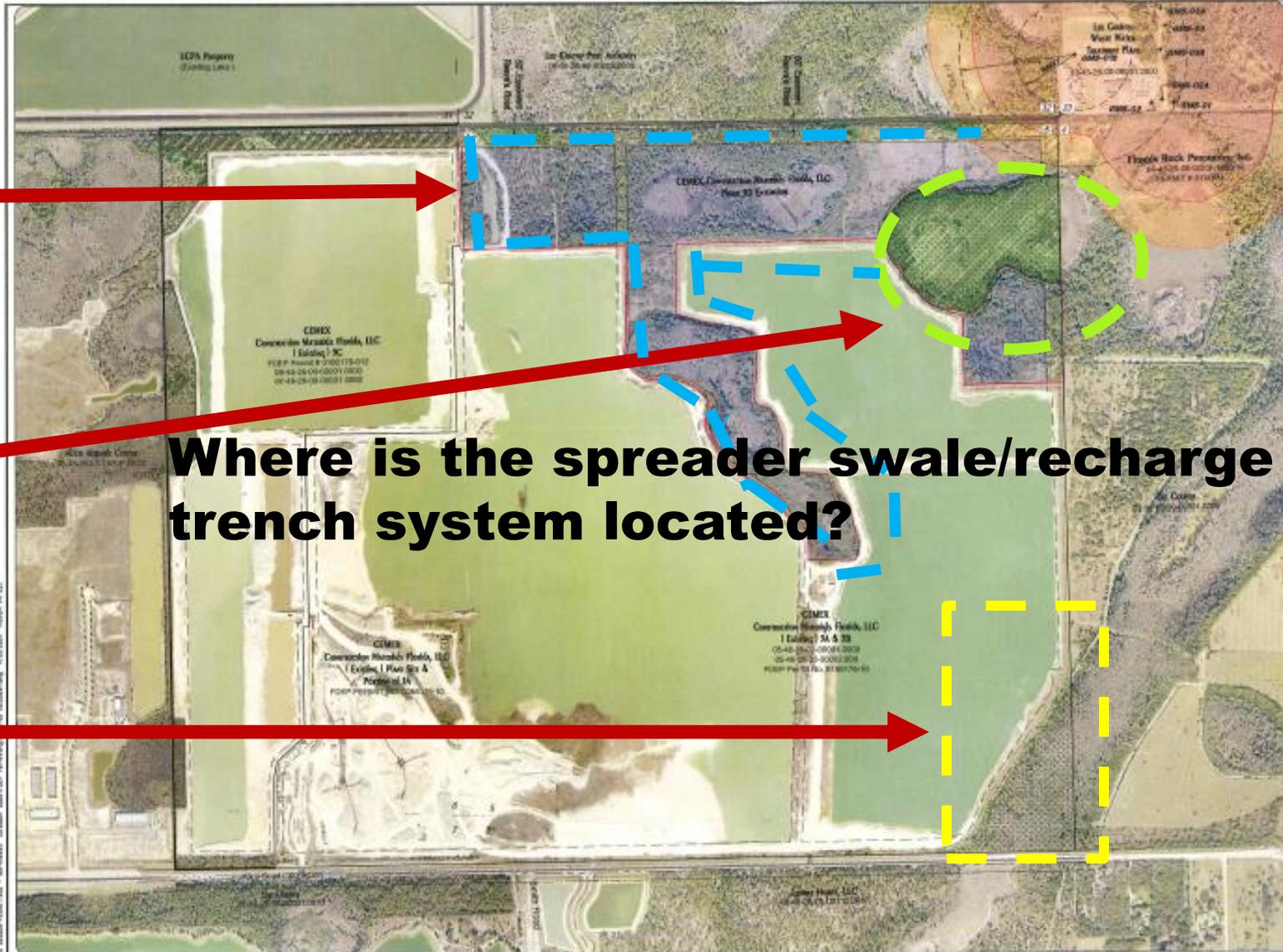
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**Where is the spreader swale/recharge trench system located?**

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**CEMEX Construction Materials Florida, LLC**  
 AUCO QUARRY 3D EXISTING IS LOCATED WITHIN A PORTION OF SECTION 36, TWP. 48 S., R9E, 36 E.

- LEGEND:**
- AUCO QUARRY BOUNDARIES**
- Blue Dashed - Proposed H&PO Area
  - Orange Line & Points of Phase 2A
  - Blue Line - Phase 3C
  - Purple Line - Phase 3D - FLGCC Assessment Area for DEP & GRAM
  - Pink Dashed - Phase 3D Extension Area (2025 Ac.)
  - Black Line - Property Lines
  - Black Dashed Line - Right-of-Way Line

- LCI WETLAND PROTECTION ZONES:**
- Light Pink - Wetland Protection Area - Zone 1 (6 Months)
  - Light Orange - Wetland Protection Area - Zone 2 (1 Year)
  - Black Arrow - LCI Public Supply Well Locations (Field Located)

**LCI WELLFIELD LOCATIONS (FIELD LOCATED)**

WELL DESCRIPTION	NORTHING	EASTING
KUMF-01	753611.00	746744.00
KUMF-02	753611.00	746744.00
KUMF-03	753611.00	746744.00
KUMF-04	753611.00	746744.00
KUMF-05	753611.00	746744.00
KUMF-06	753611.00	746744.00
KUMF-08	753611.00	746744.00

AERIAL PHOTOGRAPHY: APRIL 2022

<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>05/20/20</td> <td>ISSUED FOR PERMITS</td> </tr> <tr> <td>2</td> <td>05/20/20</td> <td>ISSUED FOR PERMITS</td> </tr> <tr> <td>3</td> <td>05/20/20</td> <td>ISSUED FOR PERMITS</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	1	05/20/20	ISSUED FOR PERMITS	2	05/20/20	ISSUED FOR PERMITS	3	05/20/20	ISSUED FOR PERMITS	<p><b>CEMEX</b>          AUCO QUARRY EXTENSION</p>	<p><b>HM</b>          HILLSBORO CONSULTANTS</p>	<p>6000 Highway Creek Drive          Fort Myers, FL 33919          Phone: (239) 480-5000          Florida Certificate of          Registration No. 1772</p>	<p><b>SITE AERIAL PHOTOGRAPH</b>          AUCO QUARRY</p>	<p>PROJECT NO. 2000.013A</p>	<p>DRAWING NO. 1467</p>	<p>SHEET NO. 2</p>
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Date: November 22, 2022  
To: Brian Roberts, Development Services Plan Reviewer  
From: Becky Sweigert, Principal Environmental Planner  
239.533.8552  
rsweigert@leegov.com  
  
Phil Gillogly, Surface Water Manager  
239.533.8124  
[PGillogly@leegov.com](mailto:PGillogly@leegov.com)  
Subject: DCI2021-00009  
Natural Resources Staff Report and Conditions for Cemex

**Policy 63.1.2** requires the staff hydrogeologist to review and comment on all development applications near public utility potable water wellfields. The Natural Resources Staff Report enclosed as Attachment “L” does address this requirement and will be discussed in greater detail later in this document.

**IMPACT: 0.5 feet lower in dry season water table at Wetland 200**

**IMPACT: 0.5-0.25 feet lower in dry season water table at flow-way**

The results show that the water table elevations at the northeast corner of Phase 3D will be approximately 0.5 feet lower than the aforementioned seasonal high ground water levels. Ground water elevations will be approximately ½ foot lower beneath Wetland 200 and approximately ½ to 1/4 foot lower under the adjacent flow way to the east. Ground surface in Wetland 200 ranges from approximately 21.3 to 22.2 feet NAVD 88. The model results show that ground water elevations at Wetland 200 after completion of mining in the steady state condition will range from approximately 22.2 to 22.4 feet NAVD 88. Therefore, during the wet season, the water table surface will keep Wetland 200 hydrated. The simulations show that the impact of the mine lakes on the water table elevations is within the historical range of water levels in the area. The current water level monitoring data shows no measurable impact from the ongoing mining operations.

# HYDROLOGICAL REPORT INCONSISTENT & UNSPECIFIED

Additionally, the applicant has provided two groundwater model simulations based on the proposed expansion into Phase 3D. The groundwater modeling is contained in the Hydrogeologic Report in Attachment-1 of the Natural Resources Staff Report. The results of the modeling show that water table elevations at the northeast corner of Phase 3D will be approximately 0.5 feet lower than previous seasonal high ground water levels. This includes the area beneath Wetland 200 and the adjacent flow way to the east. The applicant has proposed a spreader swale system and a wetland monitoring program to maintain and monitor the hydration of the wetland. Staff agrees that the proposed spreader swale system and monitoring program will mitigate the drawdown predicted in the model simulations. At the conclusion of the mining operations, the model simulations show that the impact of mine lakes on the water table elevations is within the historical range of water levels in the area. The proposed perimeter berms for the Phase 3D expansion will be constructed to connect to existing berms approved in the previous phases. This will provide a complete perimeter berm at sufficient elevation to retain surface water runoff.

**IMPACT: “complete perimeter berm”**

**Where is the spreader swale/recharge trench system located?**

**Objective 10.2** requires expanded natural resource extraction operations to be compatible with the environment and surrounding land uses through requirements for monitoring, reclamation, water supply planning, surface and groundwater management, wetland protection, and wildlife conservation.

Excerpts from  
Staff Report  
pg. 9, 10 & 11

The proposed development will also provide wildlife habitat and connectivity to Wild Turkey Strand to the east.

***WHAT ABOUT CONNECTIVITY TO WILD BLUE FLOW-WAY & PRESERVE LANDS ?***

- **CONNECTOR FOR LARGE SCALE ECOSYSTEM RESTORATION IN THE PREMIERE ENVIRONMENTAL ENHANCED PRESERVATION COMMUNITY?**

Additionally, Wetland 200 (28.86 acres) will not be impacted. **? INCONSISTENT**

**Goal 124:** Details Objectives and Policies for development in wetlands that works with existing state and federal permitting processes, while protecting the fragile ecological characteristics of wetland systems.

Wetland impacts have been avoided and minimized. Unavoidable impacts have been limited to resources of limited natural function. The expansion of the existing Alico Quarry into Phase 3D, adjacent to existing

**Policy 124.1.2** states that the County will not undertake and independent review at the development order stage of the impacts to wetland resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.

The applicant is proposing to permanently impact 64.94 acres of FDEP jurisdictional wetlands and 1.76 acres of secondary impacts are part of the Phase 3D expansion. These impacts have also been identified as being contiguous with federally jurisdictional waters. The applicant has submitted to amend the existing FDEP and ACOE permits to include planned minimization and avoidance, partial mitigation for FDEP jurisdictional wetland impacts, panther habitat units (PHU), and indigenous preservation to comply with LDC Section 12-113.

The Applicant has given ~~special~~ consideration to the protection of surrounding private and publicly owned conservation and preservation lands.

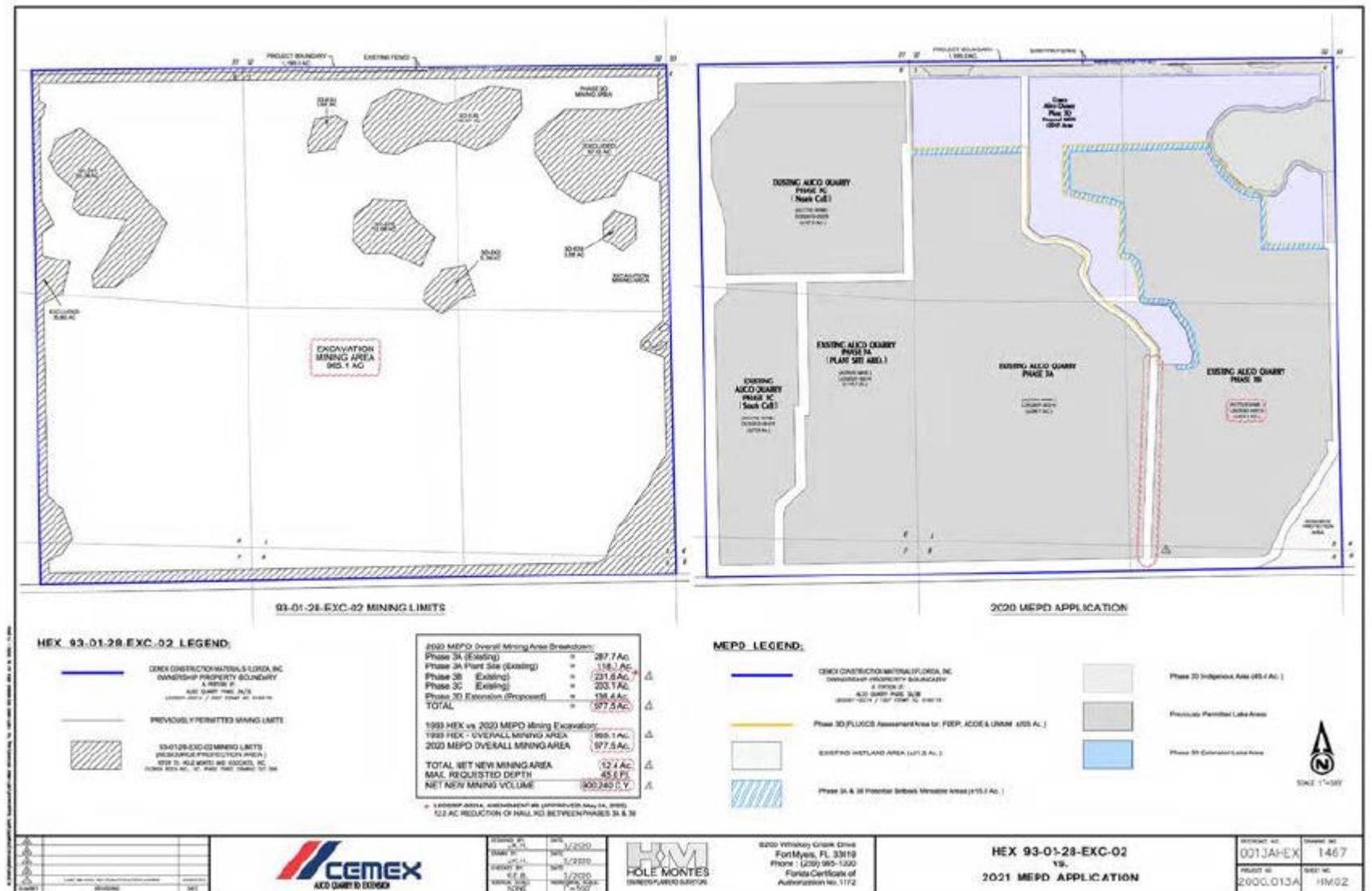
### **CONCLUSION:**

MINING WETLANDS & PRESERVES, BUILDING BERMS, SPREADERS OR TRENCHES **DOES NOT** ENHANCE WATER QUALITY IN SURROUNDING CONSERVATION AREAS, INCLUDING THE FLOW-WAY INTO A RESIDENTIAL DEVELOPMENT, PROTECT PUBLIC WELL-FIELDS OR PROVIDE WILDLIFE CONNECTIVITY OR HABITAT.

Excerpts from  
Staff Report  
pg. 3 & 4

All conditions in Resolution ZAB-86-62 were carried over “except as specifically amended as part of this action.” As part of the approval, specific wetland areas were excluded from the approval. These areas are summarized in the Hearing Examiner’s Decision, sheet HM02 of Attachment “E”, MEPD Plans, and Figure 2 below.

The subject zoning action seeks to include those wetlands as part of the mine excavation operations.



A Hearing Examiner Decision was rendered for case number **93-01-28-EXC-02** (Attachment “F”) on March 17, 1993.

# Public Concerns

- **Buffers are inadequate**
- **Practices outdated**
- **Public safety not protected**

**Goals 125, 126 and 127:** Require that water quality be maintained or improved for the protection of the environment and people of Lee County by maintaining high water quality, identifying, controlling and eliminating water pollution, no degradation of ground water quality, monitoring, wellfield protection and maintenance of the best possible air quality.

**Deviation (3-A/3-B)** seeks relief from the LDC Section 12-113(c)(1)a requirement to provide a 150-foot excavation setback from an existing street right-of-way, to recognize the existing approval for a 100-foot excavation setback from a right-of-way (Alico Road).

Staff Comments: Staff recommends **denial** of this deviation. The plans approved in LDO2007-00214 on September 10, 2007 clearly indicated a 150-foot setback from the roadway to the mine excavation.

**Deviation (3-C)** seeks relief from the LDC Section 12-113(c)(1)a requirement to provide a 150-foot excavation setback from an existing street right-of-way, to recognize the existing approval for a 75-foot excavation setback from a future right-of-way for the future Alico Road widening (150 feet from the existing street right-of-way).

**Deviation (2-A/2-B)** seeks relief from LDC Section 12-113 (o)(1), Buffers, which requires landscape buffers when the mine property abuts a right-of-way or conservation lands, to recognize the existing condition of no buffers in Phase 3A and 3B of the MEPPD.

Excerpt pg. 14, Staff Report:

The applicant has requested deviations to memorialize the previous buffers approved in Phases 3A, 3B, and 3C.

**Why not memorialize the Wild Blue Flow-way 18.5-acre parcel to protect water & wildlife?**



All preserve areas as defined in **Policy 10.2.5** will be placed in a conservation easement.

Excerpt from pg. 13, Staff Report

Natural resource extraction operations are required to provide a minimum of 25 percent indigenous open space in accordance with LDC Section 12-113(m). The applicant has proposed **Deviation 10-D to recognize** previously approved onsite and off-site indigenous areas totaling **197.85 acres or 16.6 percent**. Off-site Phases 3A through 3C were previously permitted through the County and State permits on private lands south of the subject property and are part of conservations areas within Wild Blue and Corkscrew Shores. Staff recommends approval of Deviation 10-D.

**Why not memorialize the Wild Blue Flow-way 18.5-acre parcel to protect water & wildlife?**



**Panthers, a female  
and 3 cubs on  
Devore Lane  
across Alico on  
edge of Wild Blue  
Preserve & Flow-  
way**



**Excerpt pg. 14, Staff Report**

LDC Section 12-113(p) requires a 300-foot-wide wildlife habitat corridor with planting providing connectivity to adjacent preserves or conservation lands. The applicant has requested a deviation (11-D) to allow the indigenous preserves and open space areas with a minimum 125-foot width and a maximum of 1,534 foot width to meet the intent of the wildlife habitat area.

According to available FWC GIS data, the majority of the project area is within the Primary Habitat for the Florida Panther. Although tracks of the Florida Panther were observed along the southern edge of the project area in a previous survey in 2017, no Florida Panthers were directly observed during the 2021 survey or during the previous wetland delineation survey work. See attached Figure 6, Panther Habitat Map. Telemetry shows previous panther activity in 2019 and 2020 by a female Florida Panther (ID: FP257) within the project site. According to FWC Panther Pulse, Florida Panther FP:257 was killed in a vehicular accident on March 25<sup>th</sup>, 2021. No other panther telemetry has been recorded since within the vicinity of the project area.

Excerpt from Cemex/FGCU Mine Extension Zoning Case



Florida Fish and Wildlife Conservation Commission

Home > Wildlife & Habitats > Wildlife Conservation > Florida Panther Program > Panther Pulse

## Panther Pulse

10	03/25/2021	FP257	7 years	F	Vehicle	Lee	Chamberlin Pkwy near Ft. Myers Airport
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Partial List of Panther Deaths in Vicinity & Estero

26	10/30/2021	UCFP413	4 mo	F	Vehicle	Lee	Corkscrew Rd 700m West of Alico Rd
4	01/21/2021	UCFP396	2 years	M	Vehicle	Lee	SR82 at Rod and Gun Club Rd
1	01/02/2021	UCFP393	3 years	F	Vehicle	Lee	Terminal Access Rd, 0.7 miles east of intersection with Treeline Av.

Request for data about when panther FP257 was handled and collared, including location sent to FWC and telemetry data request added.



Panther on  
Devore Lane  
7/21 (reported  
to FWC, on data  
base)

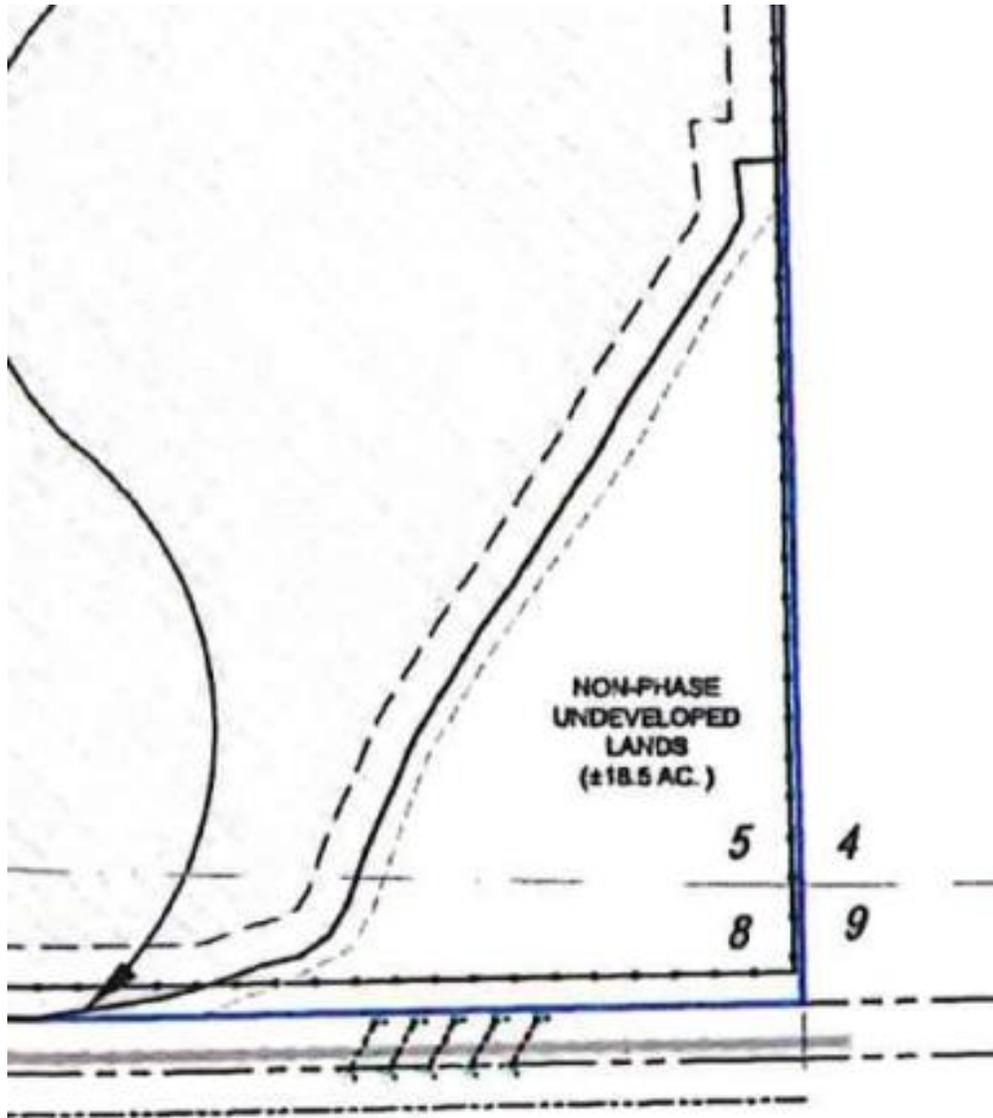
Panther photographed in Wild Blue development 12/22 and posted to Facebook page. Panther reported by resident on neighborhood page on Mallard Lane 12/22. Suggested to residents to send to FWC Panther Pulse.

Panther seen by presenter Summer 2022 crossing Alico from Wild Blue Preserve area to Wild Turkey Strand. (mid morning)

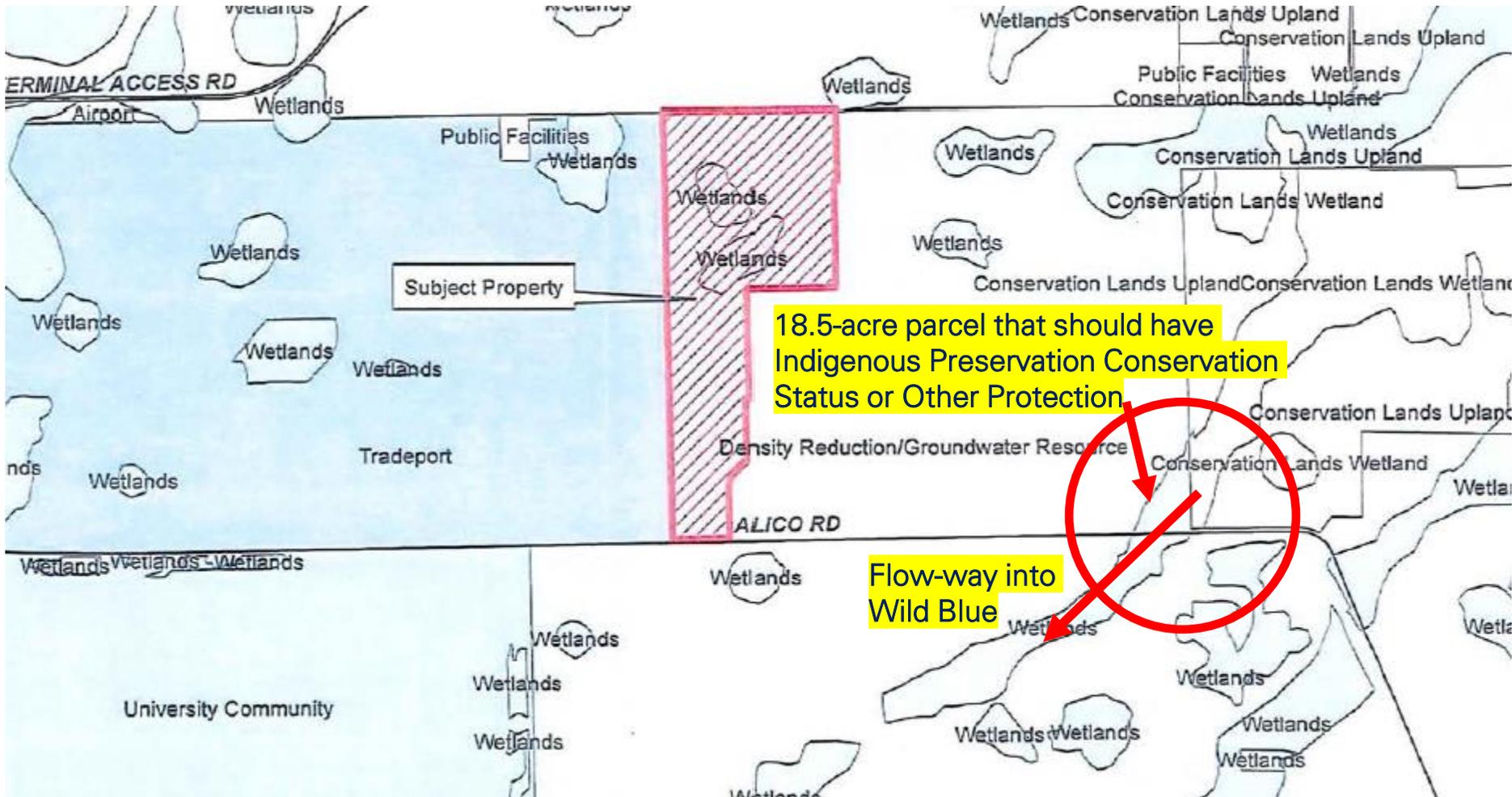
Panther seen by presenter's husband Summer 2022 crossing Alico around ETI.

*Panther are consistently seen, sometimes in family groups, in this area and are often crossing Alico road as witnessed and reported by local residents.*

# VITAL "CONNECTOR" FOR WILDLIFE & WATER



# IDEAL LOCATION FOR PANTHER CROSSING CONNECTION



# POTENTIAL CORRIDOR FOR PANTHER

WILD TURKEY STRAND >3,000  
ACRES CONSERVATION TO SR 82

**NEED FOR PANTHER  
CROSSING ON ALICO  
AT THIS LOCATION**

GATOR HOLE (20/20 PARCEL)

**EXISTING & UNDER  
CONSTRUCTION  
PANTHER CROSSING ON  
CORKSCREW ROAD**

FLINT PENN STRAND (SFWMD)

# DCI2021-00009 CEMEX/FGCU MINING EXTENSION & MEMORIALIZATION

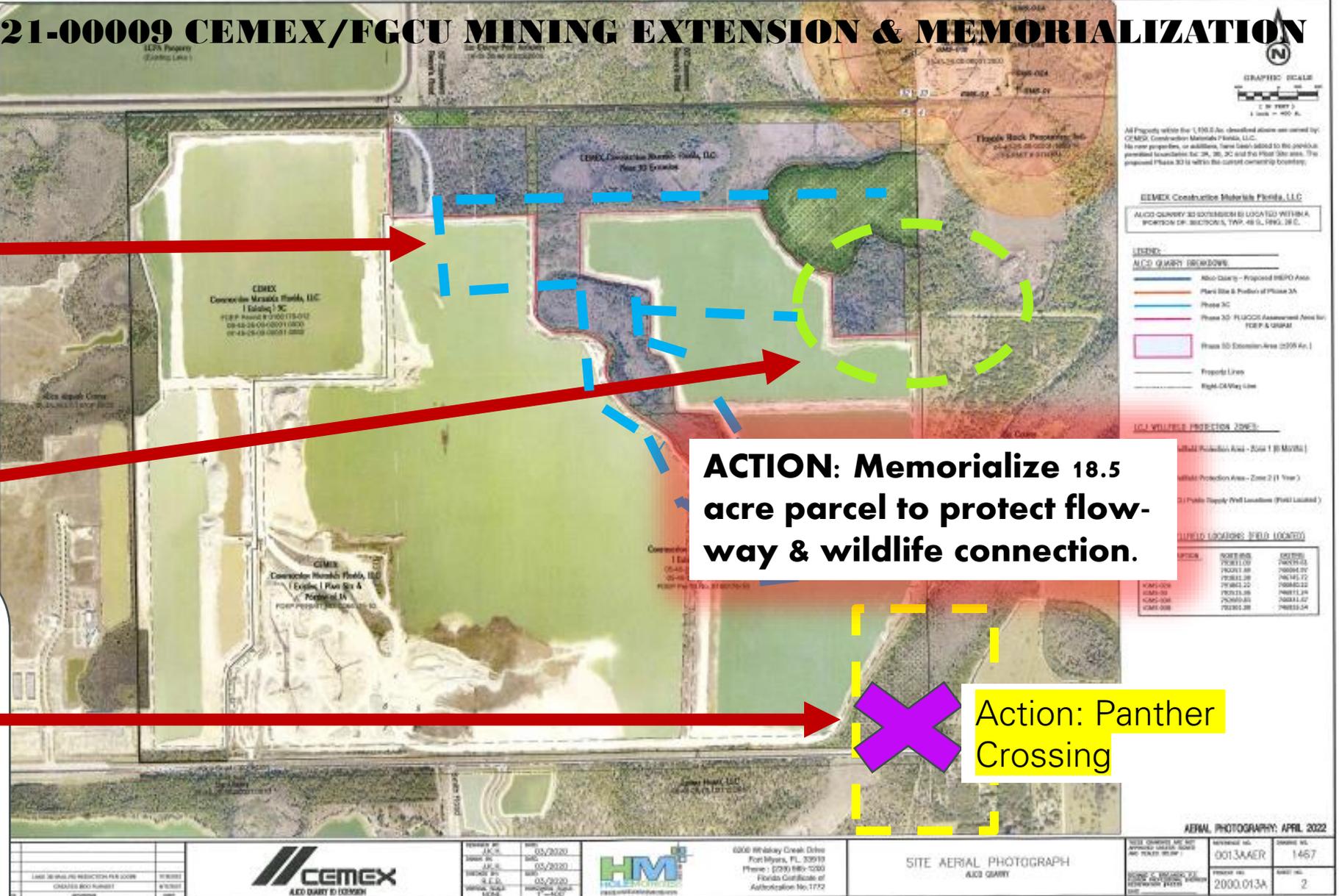
Previously Protected Wetlands & Preserves since 1993 now proposed to be mined

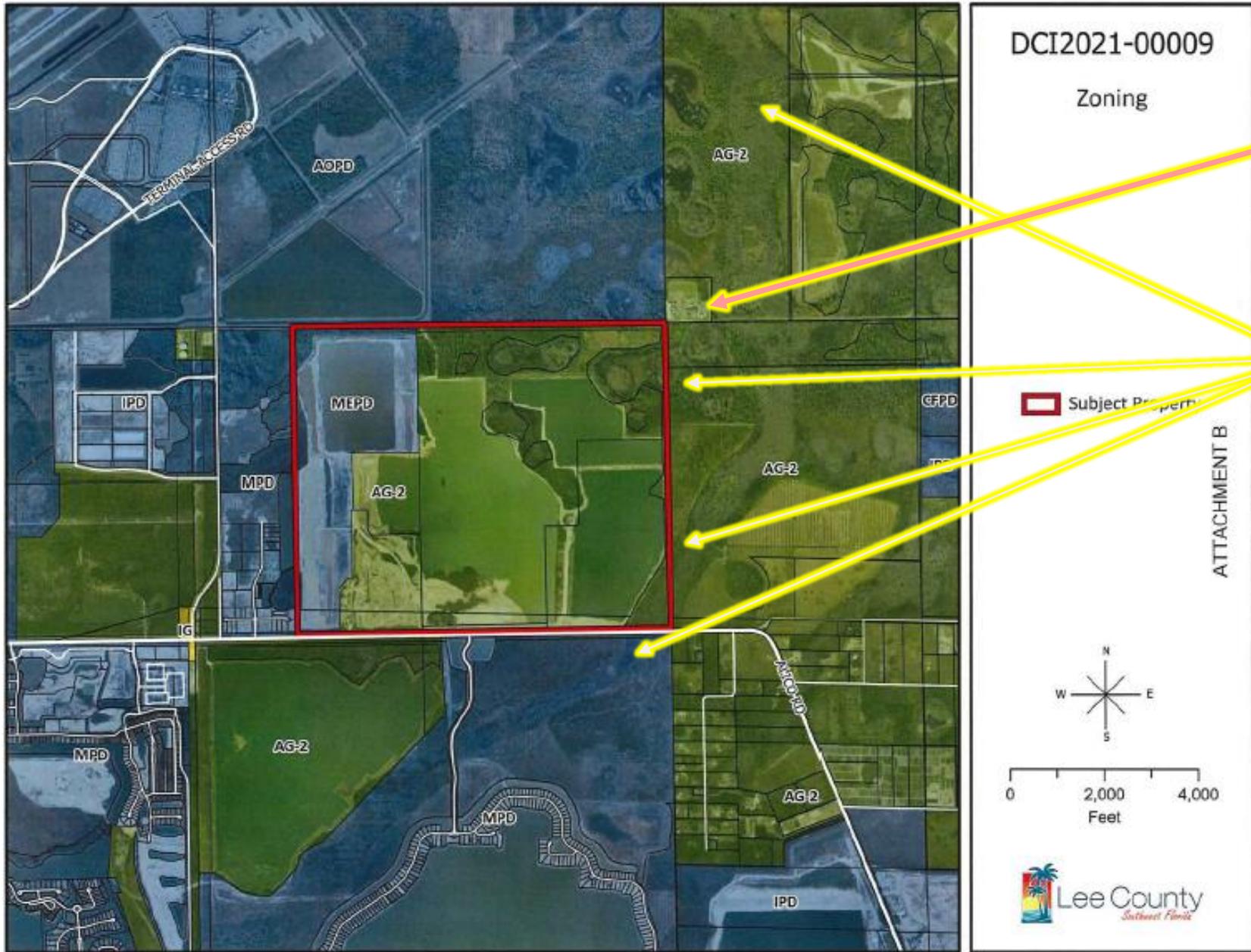


Proposed Indigenous Preserve 28.86 acres



18.5 acre Wild Blue flow-way tract owned by FGCU "non-phase undeveloped lands", Memorialize in Conservation.





Public Water Wellfield

Map DOES NOT show Conservation Status of adjoining properties, ie. Wild Turkey Strand, Wild Blue Preserve & Flow-Way

# BREACH OF PUBLIC TRUST



- Why preserve and environmentally monitor an area for decades under the public presumption the resource will be protected, then destroy it?
- Why request deviations in excess with no effort to protect vital connector or public safety?
- Why provide off-site mitigation when parcel is primary panther habitat & FGCU owns connector needed for crossing?
- Why partner & engage with FGCU and then doom panthers to vehicular death and habitat fragmenting?

“An ethic may be regarded as a mode of guidance for meeting ecological situations ... Animal instincts are modes of guidance for the individual in meeting such situations.

Ethics are possibly a kind of community  
instinct-in-the-making.”

-Aldo Leopold, *The Land Ethic*



**Florida panther mom  
uses wildlife crossing  
under I-75 to move  
three kittens to  
refuge**

**By Fox 13 News staff**

**Published March 8, 2021**

[Florida](#)

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