

Dear Neighbors and Friends,

Here are reports for days 4 and 5 of the RCH mine hearing.

ECCL Chairman Don Eslick attended day 4 of the hearing on Thursday June 4, and submits the following report:

Day four was devoted entirely to one RCH mine witness - planner Dave Depew -and was guided through nearly 6 hours of testimony by the RCH attorney. The first several hours of his testimony was directed at trying to show that staff and Hearing Examiner reports for earlier mine applications, most of them approved by the county, did not reject those mines because of their potential impact on residents living nearby. They cited numerous statements in those reports that seemed to downplay the negative impact that blasting, noise, truck traffic etc would have on residents living near the mines or along the roads that were traveled by large numbers of trucks. Next they tried to demonstrate that there were many policies and actions that the County could have done over the years in order to separate mining and housing in this area or protect residents from the impact of mining, but had failed to do so over the last decade or two since the compatibility issue was called to their attention at numerous mine zoning hearings. After trying to show that they had tried to cooperate with the county after the Circuit Court had decided that this case should go forward under the old mining rules, they introduced a new set of conditions that they said they would be willing to accept if the mine is approved. These proposals include the following:

- A limit of 2,400 round trip truck trips per day
- Three site related road improvements at the intersection of Alico and Corkscrew; at the intersection of Burgundy Farms Lane and Corkscrew Road and at the entrance to the min, all at the applicants expense
- Pay for 20 hours per week of supplemental traffic enforcement by the Lee County Sheriff.

When the Hearing Examiner opened the Hearing for Public Testimony thirteen(13) more Estero and Corkscrew Rural Community residents spoke in opposition to the mine. That brings the total number of residents speaking against the mine to 41.

I didn't get a record of the names of the 13 residents testifying on Friday although I know a few who did testify. I'll see if the HEX office can provide this info which will be helpful to have when the BOCC considers the case for the final vote.

I attended day 5 of the hearing on Friday June 5th. The day's proceeding was shortened to a half-day by the Hearing Examiner since the applicant's final witness had completed testimony on Thursday and only cross examination remained before the County staff begins their presentations.

The applicant's lead planner Dave Depew was cross examined by County staff from Natural Resources, Port Authority, and the County Attorney. During this cross examination, questions were submitted to Dr. Depew which damaged his previous testimony about whether there is any "entitlement" to mine this particular project site due to past approvals on Corkscrew Road. There were also questions about the compatibility of mining and residential uses. Depew suggested that people living along Corkscrew Road should have known that mining was coming before moving there.

Our attorney Tom Hart questioned Depew about many aspects of the proposed mine that related to compatibility.

- Structure heights are proposed for up to 50 feet, but equipment like crushers and draglines will be higher.
- How many batch plants / asphalt? Total of four – concrete batch, block plant, asphalt, block / pavers.
- Hours of operation: if a contract to deliver materials for a "public" project is active, the mine & trucks will run 24/7. Otherwise, 5 AM for trucks and 7 AM for excavation and crushing.

- Condition 5 protects public water supply wells. Does this condition protect private wells in the area? Answer was “no”.
- Condition limiting trucks to 2400 per day + up to 10% (or 2640 trips per day). What happens if this condition is violated? Answer “don’t know”.
- Truck drivers could be permanently banned from mine for repeated violations of speeding. How would this be enforced? Answer “don’t know”.
- Pollution Prevention Program – oversight by state Dept. of Environmental Protection (DEP)
- Depth control – reviewed and monitored by DEP.
- Can the county enforce any aspect of blasting related to this operation. Answer “don’t know”.
- Noise – all we can rely on is the Lee Count Noise Ordinance. Depew stated attempts will be made to reduce noise on the site.
- When DR/GR was created in 1991, were homes in the area? Yes.

The Hearing Examiner also cross examined Depew. Unfortunately, he seemed to use this opportunity to give the applicant suggestions about how to modify conditions to improve compatibility issues and satisfy some of the objections of County staff. The HEX requested that the applicant submit revised conditions by August 7th, and invited County staff to submit proposed conditions (if any) by that same date. He ordered written comments on these conditions by August 14th from the applicant, County Staff, and Tom Hart.

During redirect, the applicant’s attorney Bill Moore reinforced their position that the BOCC has been aware for several years that there were land use conflicts in the Corkscrew Road area related to mining, yet they didn’t take action to change the rules in the Comp Plan. There was just the fact of two denials.

- Added that airport noise contours place restrictions on future residential, but there are no similar restrictions for mining.
- Westwind mine was approved after most nearby residential was already built. Found compatible by the county. More houses built nearby since mine started operations. Similar points made about mine next to Bella Terra.

At around 11:20 AM, the HEX asked for members of the public to testify. Because of the short day, only one resident was on hand to testify:

- Don Leroy – Estero (Grandeza)
 - Concerned about concentration of dump trucks traveling Corkscrew Road. Noise, safety concerns.

The hearing concluded about 11:30. The hearing has been continued until August 19th. An additional six days have been scheduled:

August 19
 August 20
 August 21
 August 26 (if needed)
 August 27 (if needed)
 August 28 (if needed)

- Kevin Hill

Corkscrew Rural Community
www.corkscrewroad.org