

June 12, 2009

# Response to FHWA's Review and Comments Regarding 2007 Draft EIS

COMMENTS BY: Lee County; reviewed by FDOT  
DATE: June 11, 2009

Email comments from FHWA Civil Rights Coordinator dated 12/3/07.

1. Good discussion of residential relocations.

**Response:** *No response required.*

2. Fair EJ discussion - ensure Public comments or objections of The 951 Council grassroots organization are addressed in the document. (No appendix or report containing letters from officials or public comments)

**Response:** *A summary of the comments presented by The 951 Council grassroots organization and how their comments were addressed has been included in section 5.6, "Special Interest Groups and Homeowner's Associations" beginning on page 5-28 of the DEIS. Public comments, including those from the 951 Council, are included in the project file and will be contained in the Comments and Coordination Report (CCR).*

3. More discussion /information about the business displacements- golf course maintenance facility, Admin for mining operations- is there room on the property to move these back or to another location? If not are sites available near?

**Response:** *Additional details regarding the business displacements have been included on page 4-4 in section 4.1.4 of the DEIS. Discussions regarding relocating the golf course maintenance facility have been ongoing with Lee County. There is a possible location for possibly relocating the golf maintenance building in an area that lies partially on Lee County property and partially on the existing golf maintenance property. There also appears to be adequate room to relocate the administration building within the mining operations property.*

4. How severe is the horse farm taking? – is there similar property available near – by? Severed- how transport animals?

**Response:** *Additional information regarding the horse farm displacements has been included on page 4-4 in section 4.1.4. Alternates 1 and 2 would necessitate the relocation of one horse farm and possibly require a partial take of property from another horse farm depending on whether the alignments are shifted northeast to avoid impacting the FP&L substation. There does appear to be similar property available within the county. A minimum 5-acre size property is typically required for adequate replacement but would potentially increase depending on the number of horses that are kept and maintained.*

5. What are the relative costs in the breakdown for relocations of these businesses?

**Response:** *The cost for relocating the businesses has been included in the Project Costs and Summary of Impacts (Table S.1 on page S-14 and Table 4.5 on page 4-43). The costs for relocating the businesses are as follows: Golf Course Maintenance Building - \$3,000,000.00; two (2) Horse Farms - \$1,500,000.00 each; and Mining Office - \$5,000,000.00.*

6. Noted no major utility impacts on Alts 3-4 ---how “major” are the impacts on Alts 1-2? Result in long delays/construction costs? Must agency relocate any of the utilities (prior rights?)

**Response:** *The utility impacts for the various build alternatives are described on page 4-7 in a new section of the DEIS, Section 4.1.5 Utilities.*

# PROJECT REVIEW

County Road 951 Extension

From Immokolee Road to Alico Road

Lee and Collier Counties, Florida

Draft EIS of October 2007 transmitted with the November 19, 2007 FDOT cover letter

# COMMENTS FROM

FHWA-FL Division

January 14, 2008

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1. **Project Schedule:** Pursuant to SAFETEA-LU 6002, a project schedule with major milestones is needed for this project. This will need to be submitted before the DEIS can be made available to the public. Once FHWA has concurred with the schedule, it should be made available to the agencies and public for comment. This can be done using the project website and ETAT e-mail notifications.

**Response:** *No document modification is required. Lee County is committed to pursuing the design phase associated with the CR 951 project; however, it is difficult to anticipate or identify future funding sources and major milestones for this project. A milestone study schedule has been developed and will be provided to FHWA and published on the CR 951 project website. DRMP and Lee County will continue to coordinate with FDOT to identify those future phases that will be funded and included in the 5-year work program (TIP, STIP, etc.). Additional input will be requested from FDOT.*

2. **Section 4(f):** There are many public lands in the corridor study areas. No Section 4(f) determination of applicability has been provided, and the DEIS does not include a Section 4(f) Evaluation. Although the DEIS, in Section 4.2.2 states, “If determined necessary, a determination of Section 4(f) Applicability will be requested prior to the public hearing,” this statement does not reflect the necessary process. It is very possible that the Section 4(f) Evaluation could be a major consideration in the evaluation of the alternatives, the ability to exclude alternatives from consideration, and the decision to choose which alternative is reasonable and feasible. A Section 4(f) determination of applicability to identify Section 4(f) resources must be completed prior to the DEIS being made available to the public.

**Response:** *As documented on page 4-9 in Section 4.2.2 Recreational/Parkland, a Section 4(f) Determination of Applicability was initiated for the conservation easement located south of the Stoneybrook subdivision at Corkscrew Road, east of I-75. The DOA was submitted to FDOT initially and then to FHWA on*

*December 17, 2008. FHWA reviewed the DOA information submitted for the Stoneybrook Conservation Easement and has concurred with the finding that Section 4(f) does not apply for this parcel. A copy of the FHWA concurrence letter is contained in Appendix C of the DEIS.*

*In regards to other public lands within the CR 951 study area, the SFWMD recently re-formulated the CREW boundary and CREW lands are now located outside the proposed right of way limits for the CR 951 alignment alternatives. The reformulated boundaries of the Southern CREW as adopted by the SFWMD in February 2009 are shown in Figure 3.7 Public Lands and Conservation Areas, on page 3-20. A copy of the SFWMD resolution, dated February 12, 2009 has been inserted in Appendix C of the DEIS. The proposed CR 951 project would not impact CREW lands.*

3. **Purpose and Need Summary Statement:** The project's purpose and need is referred to on page S-3 in the discussion of "Alternatives Considered." It would be helpful if a summary Purpose and Need Statement for the project could be stated before or at the beginning of the section on alternatives.

**Response:** *A summary of the Purpose and Need statement has been inserted on page 2-1 in Section 2.0 Alternatives Including Proposed Action.*

4. **Permitting/Cooperating Agencies:** Section S.7 identifies State and Federal permitting for the project, but does not include incidental take permits for listed species that are mentioned elsewhere in the document. Further, it is not clear if these permitting agencies are intended to be Cooperating agencies and if the DEIS was sent to them already. If it is the intent for these agencies to also serve as Cooperating Agencies, they should be identified as such in the DEIS. Appendix C includes a response from the US Fish and Wildlife Service that they have accepted the invitation to become a cooperating agency. Other letters and acceptances should be included as well.

**Response:** *A statement indicating that the USFWS was invited and accepted to become a Cooperating Agency was inserted in Section S.7 on page S-6. Other agencies were invited to become cooperating agencies, but only USFWS accepted.*

*Incidental take permits as identified in other sections of the DEIS have also been included in Section S.7.*

## 5. Purpose and Need Section:

- a. **Extraneous Information:** Section 1.0 Purpose and Need begins with two long paragraphs that discuss why a DEIS has been prepared, its contents, and the relevant Federal and State requirements that the document is intended to satisfy. The third paragraph describes the proposed project, the project limits, and how these limits were coordinated. This information provides a good introduction to the DEIS, but is not relevant to Purpose and Need. Information relevant to Purpose and Need does not begin until page 1-3 and should be presented earlier.

**Response:** *The first two paragraphs in Section 1.0 discussing the reasons why a DEIS was prepared and its requirements were removed. The Purpose and Need section beginning on page 1-1 has been revised to provide a clearer, concise statement that relates only to those issues regarding the CR 951 project.*

- b. **Inconsistent Need and Purpose:** The Purpose and Need in Section 1 is unclear due to contradictions in the identified “needs” or objectives to be addressed and the corresponding purposes for the project. Section 1.0, for example, includes five “goals and objectives” that are identified in bullet format as the basis for the project’s purpose. In Section 1.1, six similar, but slightly different “primary functions” are listed in bullet format. This section then explains that these functions were used to develop “a set of project goals and objectives.” This set of six bulleted items are similar to, but again, slightly different from the previous two lists. The next paragraph of section 1.1 then discusses yet a different group of “factors” on which the purpose and need is based. These factors are then further explained in Sections 1.3 through 1.7. The DEIS does not explain how the lists of “goals and objectives,” “primary functions,” and “factors” are related and which listing is the one that is intended to define the purpose and need for the project. The relationships between the various lists need to be clarified so that the need and purpose of the project is not subject to interpretation.

**Response:** *Section 1.0 Purpose of and Need for Action on page 1-1 has been revised to provide a more definitive statement of the purpose of the CR 951 Extension project and how the transportation needs for the project were developed and its intended goals and objectives.*

- c. **Concise, Focused Summary of the Need and Purpose:** FHWA suggests that the DEIS include a clear summary statement(s) of what the need for the project is, and its purpose. If it evolved based on public involvement meetings and MPO input, that can be stated, but the concluding purpose and need for the project on which all alternatives will be evaluated should be very, very clear. Although the PD&E Manual lists possible reasons for

a project need and purpose, those reasons do not have to be used if the intent of the project is to address different reasons or more locally specific objectives. The DEIS should focus on those that are most relevant to this particular project, rather than obfuscating the purpose and need by trying to address too many things.

**Response:** *See response to 5b. above.*

- d. Incidental Benefits:** Benefits that might be incidental to the project, but are not the primary reasons for the project should be discussed separately. Section 1.5, for example, states, “An ancillary effect of the proposed project would be a crash frequency reduction” at certain locations. There are many ways to address high crash rate locations, most of which address this issue more directly than constructing an alternative route to a high accident location. If Safety is not a primary need and purpose for this project, it should be addressed separately from the primary purpose and need section. Additionally, the correlation between reducing congestion from an alternate road and crash frequency reduction at specific locations is not supported. If Safety is a primary need and purpose of the project, the DEIS should explain in more detail the safety needs of the area and how the project alternatives will improve safety. The Purpose and Need Section should include only those issues related to the primary need and purpose for the project.

**Response:** *Safety was considered as an incidental benefit of the CR 951 project and was removed from the discussion as a primary purpose and need for the project. Other benefits of the project, including safety that did not fully support the primary purpose and need were discussed separately.*

- e. Supporting Information/Analysis of Alternatives on Need and Purpose Objectives:** If the 5-6 goals and objectives or functions are the basis for the purpose and need, the DEIS should further explain these issues. Particularly confusing were the items related to serving both inter-county/regional and local traffic. Since the roadway extension is not yet there, the local traffic that it is intended to serve is not clearly specified. Is serving local traffic intended to stimulate growth in the study area that will use the road? How will a toll road serve local traffic? What is considered to be regional traffic as opposed to inter-county and local traffic? Additionally, the DEIS did not describe the **hurricane evacuation** needs for the area, nor did the project purpose address those needs. The primary issues related to need and purpose for the project should be clearly explained in terms of the objective that is to be achieved. The DEIS should assess how each alternative addresses each aspect of the need and purpose.

**Response:** *A more detailed explanation of how the proposed CR 951 Extension will serve both inter-county/regional and local traffic has been provided on page 1-3 of the DEIS. As far as the confusion over serving both a local traffic need and a regional traffic need, this is a common situation in Southwest Florida, where a limited road network forces a mixture of traffic types on major road facilities. Local demand for the CR 951 Extension already exists and will expand as development east of the interstate continues in the future. The roadway is not intended to stimulate that growth, but is proposed in response to the development that already exists and the growth projected in the local comprehensive plans.*

*The CR 951 Extension would provide a travel option to using the interstate. Even with a toll on it, the CR 951 Extension could be more desirable for local traffic use to a more roundabout and longer trip out to the interstate, particularly if the tolls help ensure free-flowing (and faster travel) conditions and the interstate suffers from congestion.*

*Regarding the hurricane evacuation needs or any emergency evacuation for the region, past evacuation experiences have shown that for residents of Collier County who want to evacuate to the north (as is often the plan in the event of an approaching hurricane), they only have two options that take them beyond Lee County – US 41 and I-75. Providing additional north-south capacity with the CR 951 Extension would provide options for evacuees without depending on a congested interstate. Providing a parallel reliever on the east side of I-75 also provides by-pass alternatives when incidents close lanes on the interstate, and can improve emergency vehicle access and response times on the east side of the interstate.*

*The DEIS was revised to include a discussion of how each final build alternative addresses and meets the project's purpose and need in respect to the goals and objectives.*

6. **Coconut Road:** Sections S.4 (#10) and 1.3 identify Coconut Road as an additional east-west corridor in the Lee County LRTP to be extended east to CR 951. This road was not presented in this manner in the ETDM review for the Coconut Road/I-75 interchange. Please provide a current update as to the status of the Coconut Road/I-75 connection and/or extension to clarify this issue and revise any portion of the DEIS that may be outdated.

**Response:** *Document modification was not required. The interchange and the eastern extension of Coconut Road remain in the MPO's 2030 plan as noted earlier, so including them in the DEIS analysis for the CR 951 Extension was and still is appropriate.*

*A 2-lane extension of Coconut Road from a new interchange at I-75 east to the CR 951 Extension is included in the Lee County Metropolitan Planning*

*Organization's 2030 Highway Element (Adopted December 7, 2005, last amended March 17, 2006) as a project needed but contingent upon additional funding. Since the existing part of Coconut Road is a Lee County facility, the assumption in the MPO plan is that the extension of Coconut Road would be a Lee County responsibility (involving local funding, not State or Federal funding). The new interchange at Coconut Road/I-75 is similarly shown in the MPO plan as needed, contingent upon additional funding, but was assumed an FDOT responsibility (State/Federal or private funding).*

*The recent ETDM review submitted by the staff of the Lee County MPO for the Coconut Road/I-75 interchange was prompted by a potential Interchange Justification Report (IJR) that was to be done by FDOT using part of a \$10 million Federal appropriation specifically earmarked for that interchange. If the IJR was positive, the remainder of the appropriation was targeted for the subsequent PD&E Study, and then the design phase. Funding was not identified for the right-of-way or construction phases of the interchange. For the ETDM review, the focus was on the interchange only, not the eastern extension of Coconut Road, which is viewed as a separate project to be funded with local funds. As far as the current status of the interchange, there was a lot of local and national concern about how the appropriation came about and the original intention for the funds (they were part of the same authorization that brought another \$81 million for the 6-laning of I-75 from Golden Gate Parkway to Colonial Boulevard, which is currently underway). Given the questions, the Lee County MPO recently decided not to include the IJR, PD&E Study and design phase for the interchange in its 5-year Transportation Improvement Program, and asked that Congress clarify the \$10 million appropriation to show it for "Improvements to I-75 in Lee and Collier Counties", similar to the way the other \$81 million was designated.*

7. **Alternative Modes:** Although the DEIS briefly discusses transit in Section 2.3 and makes the determination that "multimodal alternatives alone would not address the need for the proposed action," this section should be rewritten and expanded. Nongovernmental organizations, in their August 11, 2004 comments (Appendix C), requested that the commuter passenger train study for the Seminole Gulf Railroad, be considered. This study, and the possible implications for traffic, based on potential passenger rail alternatives, should be specifically addressed in the DEIS. The DEIS should address whether a combination of regional transit, such as that which may be addressed in the commuter passenger train study, in combination with local transit, could address the purpose and need for the project. If a combined approach to regional and local transit can address the purpose and need for the project, the DEIS should assess whether such an alternative would be reasonable and feasible.

**Response:** *Section 2.3 Multimodal Alternative on page 2-6 has been revised. The section was expanded to include a summary of a report entitled "Southwest Florida Intercity Passenger Rail Study," which documents an initial planning and*

*feasibility study for intercity rail service in the Southwest Florida Corridor from Tampa to Naples. In addition, this section includes a discussion of the MPO's 2030 Plan that addresses the consideration of transit alternatives in Lee County. The MPO's consultant (Tindale Oliver Associates) looked at fixed-guideway transit needs, both north-south and east-west, and determined that such a system would not draw enough use to be feasible given the cost in the 2030 time frame. Instead, the plan identified the need for two bus rapid transit (BRT) corridors, one north-south and one east-west, in conjunction with a number of highway improvements, to serve travel needs by 2030. This included the four-lane extension of CR 951 from Immokalee Road to Alico Road. One of the big issues for the transit needs identified in the MPO plan was and is identification of a stable and expandable funding source. The MPO has spent the last two years discussing the possibility of establishing a regional transit authority, which might be supported by sales taxes or property taxes. However, no decisions have been made to date. Therefore, it may be reasonable to assume that any impact or effect resulting from the implementation of passenger rail service in Southwest Florida would occur beyond the scope of the CR 951 project.*

8. **No-Build LOS:** Section 1.4.2 discusses the reduction of traffic on other facilities from the CR 951 Extension; however, this raises the question as to whether the network, without the extension, would have an acceptable level of service with all the other improvements that are planned. If this is addressed in another section of the DEIS, a reference to that section should be provided. Thoroughly addressing the adequacy of the no-build was something specifically requested by the nongovernmental organizations in their letters which are included in Appendix C.

**Response:** *The No-Build Alternative was thoroughly evaluated during the alternatives screening. However, due to the volume of information, most of the detailed and background information was removed from the DEIS for brevity issues and is contained in the Alternatives Analysis Report. The Alternatives Analysis Report is available as a separate support document to the DEIS. References to the Alternatives Analysis Report have been included on page 2-1 of the DEIS.*

9. **Smart Growth Initiative:** Section 1.6 refers to Lee County's Smart Growth Initiative, which is intended to shape the future of Lee County. The relationship of this initiative to the project is not clear and is not explained. Is this initiative still valid? Does it affect, or should it be part of, the project's purpose and need? If this is addressed elsewhere in the report, a reference to that section could be provided. Otherwise, this information should be included in the DEIS.

**Response:** *A detailed discussion regarding Lee County's Smart Growth Initiative has been included in Section 3.5.3 Future Land Use on page 3-15 and is referenced in Section 1.6. The Smart Growth initiative recognizes the need for new infrastructure to address planned growth and maintain economic viability, so that it does not discourage already-planned improvements such as the CR 951*

*Extension. Much of the work that has come out of the program has stressed environmental protections, particularly related to water resources, which would include maintaining the DR/GR land use designation, which much of the CR 951 Extension would run through. By conducting this PD&E Study, which is normally not required for a locally-funded project, Lee County has committed to evaluating alignment alternatives in a manner that allows the environmental impacts to be quantified and minimized, consistent with the Smart Growth emphasis.*

10. **Widening US 41 or Three Oaks Parkway:** Page 2-14 states, “Improving US 41 beyond the current and planned improvement strategy does not address the travel demand and circulation needs east of I-75.” A similar statement is made on page 2-15 regarding Three Oaks Parkway/Livingston Road. It is not clear that this parameter (that the need is for travel demand and circulation **east** of I-75) is required by the purpose and need. Either the purpose and need needs to be clarified, or this conclusion should be better explained. It is likely that both are needed.

**Response:** *With the exception of I-75, there are no north-south facilities designed to accommodate travel between southeastern Collier County and northeastern Lee County. It has been documented in the Project History in Section 1.2 on page 1-6 that “a roadway connection east of I-75 from Immokalee Road in Collier County to Bonita Beach Road in Lee County has been part of the long range transportation plans since 1988” and on page 1-7 “a continuous corridor east of I-75 would serve several key regional facilities such as the Southwest Florida International Airport, Florida Gulf Coast University, Germain Arena and the Miramar Outlet Mall.” Both US 41 and Three Oaks Parkway, as 6-lane facilities, would operate at LOS F for 2030 traffic conditions. As indicated on page 2-15 of the DEIS, widening US 41 to eight lanes would result in adverse impacts to the Koreshan Unity Settlement Historic District and is not consistent with FDOT criteria. Results of the travel demand modeling indicate that improving either US 41 or Three Oaks Parkway beyond their planned improvements would not be as effective as the CR 951 project in terms of improving traffic conditions in the study area. Therefore, there is a need for the CR 951 project east of I-75.*

11. **Roadway Typical Section:** Page 2-34 states, “The results of the preliminary travel demand forecasts indicate the need for a four-lane facility; however, roadway concepts to support a future six-lane facility were developed to minimize or avoid future right-of-way acquisition in the event six lanes are warranted beyond the design year of 2030.” Where environmental constraints do not exist, over sizing the new roadway to accommodate potential needs is logical. Where environmental constraints currently exist, however, such as primary panther habitat and sensitive lands, sizing the roadway beyond the need that is projected may be considered to cause unnecessary impacts where other alternatives that have fewer impacts exist. Additional information should be provided to justify how a six-lane roadway with a 250 foot typical section would serve as the

environmentally preferred alternative if there is no demonstrated need for a facility of this size.

**Response:** *During the initial development of the CR 951 project, consideration was given towards identifying sufficient right-of-way to avoid future acquisitions and substantial costs. In light of the environmental constraints and current economic conditions, the typical section as shown in Figure 2-18 on page 2-64 as well as the design criteria described in Section 2.7 on page 2-60 have been revised to reflect a four-lane divided limited access suburban arterial with a design speed of 55 MPH. This revised concept will accommodate design year travel demand forecasts and reduces overall right-of-way impacts as compared to the previous concept (190-foot width versus 250-foot width).*

12. **Alternative Modes:** The second paragraph concerning Roadway Typical Sections on page 2-34 discusses accommodation of alternative modes. The DEIS is not clear regarding the extent that alternative modes will be accommodated. Although it is not specifically stated, the reader may piece the information together from this section and Figure 2.7 to understand that under the toll road option, neither bicyclists nor pedestrians would be accommodated by the new roadway. Such a decision should be made with an analysis of whether such a restriction on a new road is consistent with local plans and policies, and whether the transportation needs of the area specific to the population being served will be adequately accommodated.

**Response:** *A statement indicating that the potential construction of a multi-use pathway will be considered has been added to the DEIS on page 2-63. Lee County has expressed a desire to provide a multi-use pathway adjacent to and/or within this roadway corridor. This proposed pathway is shown on the County's adopted bikeways map.*

13. **Median Width:** Figure 2.6 identifies a median width for the Suburban 4-Lane configuration that is wider (45 feet) than the median width shown in Figure 2.7 for the higher speed Limited Access toll road option (36 feet). These widths are inconsistent with the description on page 2-34 which states, "22-foot minimum for arterial and 60 foot minimum for toll road". Please ensure that the typical section figures and the descriptions of the typical sections are consistent. If it is intended that the median width for the higher speed toll road is to be narrower than the Suburban Arterial, this reasoning should be provided. Additionally, Table 2.7 indicates that a narrower median width of 22 feet may be acceptable according to the FDOT Plans Preparation Manual in certain situations. The narrower width (26 feet) allowance in the Plans Preparation Manual for limited access facilities when a barrier is included should similarly be identified in Table 2.8. These narrower widths should be considered and if determined feasible, evaluated as part of the DEIS to ensure that the alternative with the least environmental harm is considered in the DEIS.

**Response:** *As indicated in Figure 2-18 on page 2-64, the median width has been reduced to the minimum width required for a four-lane divided limited access suburban facility (with or without tolls) with a design speed of 55 MPH. This width is 22 feet from the lip of the median gutter to the lip of the median gutter plus 4-foot lane offsets to give a 30-foot vehicle recovery area for the median. Section 2 on page 2-63 along with the typical section as shown in Figure 2-18 on page 2-64 has been revised to reflect these revisions. Appropriate sections of the Plans Preparation Manual are referenced.*

14. **FDOT Borrow Pit protection:** Page 2-38 lists the avoidance and/or minimization of impacts to the FDOT borrow pits located east of I-75 as an environmental factor in considering the refinement/modification of the alternatives. The shifting of the alignments to avoid the borrow pits is also mentioned on page 2-39. The importance of the FDOT borrow pits as an environmental resource and the need for its protection is not explained. It is surprising that the public input did not result in other environmental factors being considered in the refinement, such as listed species impacts.

**Response:** *The text on pages 2-31 and 2-32 of the DEIS has been expanded to provide specific reasons for moving the alignments east of the FDOT borrow pits. The alignments were moved more from an engineering standpoint, such as incident management, drainage, etc. as oppose to protecting an environmental resource basis.*

*There was significant public comment concerning the location of the alignment between the borrow pits and I-75, being too close to I-75. The issue expressed was that an incident could occur that would close both roads, i.e. a tanker fire, a chemical spill etc. This issue was discussed to the extent that the local fire department submitted a letter asking to move the alignment east to avoid the scenario. The project team reviewed the overall environmental impacts (wetlands, endangered species, water quality) and determined moving the alignment east of the borrow pits would not substantially increase impacts, would improve overall project cost, and improve geometry for a potential future connection via an overpass to Coconut Rd. west of I-75. That overpass is included in the Lee County MPO long range transportation plan. This analysis coupled with the community request to separate the facilities more (I-75 and CR 951) led to moving forward with this minor adjustment. This alignment adjustment only affects a single property owner. This property owner does not prefer this alignment. They have represented they prefer the alignment adjacent to the power line. The property owner has not yet provided input on this adjustment other than the non preference for it either before or after the adjustment.*

*Public comment regarding endangered species impacts to this particular alignment adjustment was not significant. This lack of comment is likely due to the proximity of the adjustment to I-75 as well as the specific lack of Panther*

*telemetry in the area west of the power lines. In fact in consultation with USF&W they do not feel wildlife crossings are necessary under this alignment segment if it is chosen. They prefer only a perimeter fence on the east side to exclude passage of any wildlife to the west.*

*While there are significant wetlands impacts associated with this alignment in both the original and the adjusted location, neither rises to the level of concern that the impact to Panther habitat causes when moving the alignment east to the power line. The public, NGO and USF&W comments received concerning this area of the project centered on minimizing impacts to the Florida Panther although the emphasis was west of the power lines and not as critical to be west of the borrow pits.*

15. **Logan Boulevard Extension:** Page 2-46 states that “the alignment geometry and right-of-way of the Logan Boulevard Extension from Immokalee Road to Lee County line would not support the alignment geometry and right-of-way requirements of CR 951.” This broad statement which is used to exclude alternatives consideration should be explained further. It would also be more understandable if the county line referenced in this and the subsequent statement could be depicted on the map (Figure 2.11).

**Response:** *A discussion on why the Logan Boulevard Extension was eliminated as a viable alternative has been explained further and is located on pages 2-37 and 2-40. Figure 2.9, Alternatives in South Section of Study Area, located on page 2-38 was revised to include the county line.*

16. **North Section Modifications:** The next to the last paragraph in Section 2.5.3 on page 2-51 concerning the east-west crossover alignment north of the Treatment Facility should be in bullet format similar to the preceding modifications.

**Response:** *This paragraph was revised to bullet format and now appears on page 2-45.*

17. **North Section Alignment N1:** Page 2-61 states that North Section Alignment N1 was eliminated from further consideration as a viable construction alternative because of its substantial impacts on residential use and potential number of relocations. Unlike the other alternatives, there is no table (such as Table 2.12 for N2) or anything to provide further detail on these residential/relocation impacts. A table similar to Table 2.12 should be provided for N1, or more detail in the text is needed.

**Response:** *Due to revisions to the DEIS, Table 2.12 has now become Table 2.10, which is located on page 2-53. A summary of impacts for N1 has been added to Table 2.10.*

18. **Cultural Resources:** Section 3.3 on page 3-4 discusses a CRAS that was conducted. The results of the CRAS are not provided in the DEIS, therefore the impact on cultural resources has not been included in the analysis of the alternatives. It is likely that this section was written as a placeholder for the analysis that will be complete in the near future. The next draft, however, should include the results of the analysis.

**Response:** *The CRAS has been submitted and a letter of concurrence was received from the SHPO. The DEIS has been revised on page 4-8 in Section 4.2.1 to incorporate the results of the CRAS and the concurrence letter has been added to Appendix C.*

19. **Comprehensive Planning:** Section 3.5, beginning on page 3-8, discusses in detail, for 3 pages, the planning responsibilities of the various agencies in the area. The section does not, however, identify what the critical planning issues are for the area. One sentence is included on page 3-14 about Lee County's Smart Growth Initiative, but the implications of this initiative, whether it is still even a valid policy, and how the project would affect this initiative is not assessed. The statement indicates that the initiative was intended to "monitor" growth. Please verify whether the initiative was also intended to influence where and how growth occurs in the area.

In the DEP comments provided on page 5-8, there is a reference to comments from the South Florida Water Management District which states, "The district further recommends the avoidance of impacts within existing conservation easements, and also advises the FDOT that certain restrictions have been placed on lands acquired with Federal funds within the southern CREW project addition/Imperial River flow-way." The comments also state, "Construction of a roadway across those lands does not appear to be a compatible use." Restrictions on these properties need to be sufficiently explained in the DEIS.

**Response:** *A statement indicating that "one of the critical planning issues for the CR 951 project is to develop and maintain a transportation system that protects community and neighborhood integrity and preserves critical environmental habitats and aesthetic values" was inserted on page 3-9 in Section 3.5. A detailed description of the Smart Growth Initiative has been included on page 3.15 in Section 3.5.3 Future Land Use. The response to Question 9 explains how the Smart Growth initiative for Lee County works. As noted, it is more of a passive, big picture approach that emphasizes protecting existing water and environmental resources to protect the quality of life for Lee County. Since much of the proposed CR 951 Extension is through the area with the DR/GR land use designation, the Smart Growth initiative does not in and of itself attempt to influence where and how growth occurs in the area, it just emphasizes the protection of resources in that area.*

*The SFWMD has recently re-formulated the CREW boundary and the resultant CREW lands are now located outside the proposed right of way limits for the CR 951 alignment alternatives. The proposed CR 951 project would not impact CREW lands. See also the response to Comment #2 from the January 14, 2008 memo from FHWA-FL Division.*

20. **Prime Farmland:** The second paragraph on page 3-15 includes several definitions of various types of farmland but does not provide a citation for where these definitions came from. The third paragraph references a recommendation from the NRCS, but provides no documentation for this recommendation. The DEIS does not state whether prime farmland areas are located within the study area (though Figures 3.5 and 3.6 indicate the existence of agricultural/rural land use designations), nor does it describe the project's potential impacts on these areas. The location of prime farmland in the study area and potential impacts on these areas needs to be included.

**Response:** *The definitions as referenced in Section 3.5.4 Farmlands are used by the U.S. Department of Agriculture (USDA) and have been referenced on page 3-18 in the DEIS. The correspondence from the NRCS, which states that lands that are committed to development (highways) are exempt from having to make a Farmland Protection Policy Act determination has been included in Appendix C of the DEIS and is now referenced. In Section 4.3.14 on page 4-38, it is stated that there are no prime farmlands in the study area. Although there are extensive areas identified as agricultural/rural land use in the project study area, these areas, by definition, are not "prime farmlands."*

21. **Conservation Lands:** page 3-19 includes the statement, "In the western portions of the study area the only site designated as Conservation Lands on Lee County's Future Land Use Map is a future park site..." This statement appears to be inconsistent with the first sentence, "Upland and wetland areas designated in The Lee Plan, the County's comprehensive plan, as Conservation Lands..." as well as Figure 3.6 which shows "Conservation Lands Upland (CLU)" and "Conservation Lands Wetland (CLW)" categories on the Lee County Future Land Use Map. These inconsistencies within the DEIS need to be corrected.

**Response:** *The area identified as a future park site on page 3-19 was incorrectly identified and referenced. This error has been corrected in the DEIS.*

**Density Reduction/Groundwater Resource (DRGR):** Figure 3.6 includes large areas designated DRGR on the Lee County Future Land Use Map. Page 3-24 also includes the statement, "A substantial portion of the CR 951 study area is located within a special land use overlay known as the Density Reduction Groundwater Resource (DRGR) Area." The DEIS does not explain the intent of this designation, what is allowed and/or prohibited in these areas, and the impact of the project on these areas. As noted in the previous comment on Comprehensive

Planning, the DEIS should provide a better assessment of the important planning considerations in the area.

**Response:** *The section regarding the DRGR designation has been revised on page 3-25 to include the intent of the Density Reduction/Groundwater Resource (DR/GR) designation and what land uses and activities are allowed as explained in Policy 1.4.5. of the Lee County Comprehensive Plan (The Lee Plan).*

*The proposed CR 951 Extension would be designed and permitted in a manner that is consistent with the requirement to maintain surface and groundwater levels at their historic levels, and is consistent with the allowable land uses. The same Lee Plan that includes this DR/GR policy also includes as part of its Transportation Element the planned four-lane extension of CR 951. The proposal to make the CR 951 Extension a limited access, possibly tolled facility also helps reduce the potential for “induced” growth in this area, although the premise that roads cause growth is debatable.*

22. **Historical:** Page 4-7 includes the statement that “one historic building was located in the APE.” This statement is not explained further, and appears inconsistent with other statements that no historic buildings were identified in the survey area. The last statement that the project “will have no effect on any archaeological or historic resources...” needs to be adequately supported.

**Response:** *The CRAS and page 4-8 of the DEIS have been corrected to indicate “no historic buildings were located in the project APE and that there were no properties adjacent to the project APE listed in the NRHP.” The CRAS has been submitted and approved. A copy of the SHPO memorandum has been included in the Appendix C of the DEIS.*

23. **Environmental Consequences of Toll Facility:** The DEIS, up until Section 4.0, discusses the possibility of either an arterial or a limited access toll road. Section 4.3, however, (as well as the summary proposed action in S.3, page S-1) indicates that a determination has been made that the CR 951 will be a limited access toll road. The rationale for this determination needs to be explained.

Additionally, the economic and social implications and feasibility of the toll road option is not provided. A section is needed to address the following types of questions related to tolling:

- How will the revenues be used, for example?
- Does a toll create disproportionate impacts on certain groups that should be mitigated?
- Will the tolls vary using a peak pricing approach, and what technology will be used?
- Will the technology be compatible with other toll collection technologies in the area?

- Will toll booths be needed, which may require additional right-of-way at some locations, and create traffic backups?
- Will the roadway be owned and maintained by FDOT, Lee County, Collier County or a private entity, and for how long?
- What type of tolling agreement will be needed?

**Response:** *A discussion on the possibility of the CR 951 Extension being a toll road has been inserted on page 2-63 in Section 2.7. Funding for the project has not yet been determined, therefore there is not a discussion comparing the effects of a toll road with the limited access suburban arterial in the DEIS. At this time, tolling is considered one option for funding the project but has not been selected as the option for project implementation. The typical section for CR 951 and the DEIS have been revised to reflect a high speed limited access suburban arterial with the option that it may eventually become a toll road (pages 2-60 to 2-64).*

*If tolling is selected to fund the project, preliminary responses to the questions are as follows:*

***How will revenues be used, for example?***

**Response:** *Most likely revenues would be used to finance the entire project in phases and to maintain the facility. Tolling has not been selected as the option to construct the facility therefore it is not possible to determine specifically how toll revenues will be allocated.*

***Does a toll create disproportionate impacts on certain groups that should be mitigated?***

**Response:** *There are several “free” parallel roads that are available to motorists including Interstate 75, Ben Hill Griffin, Imperial and Livingston Parkways. A toll will not create a disproportionate impact on any group due to the availability of alternate “free” routes.*

***Will the tolls vary using peak pricing approach and what technology will be used?***

**Response:** *Lee County’s existing toll bridges use varying tolls to manage congestion in peak periods. LeeWay’s variable pricing program, funded by a \$21 million grant from FHWA’s Value Pricing program, was one of the first of its’ kind in the country and has been very successful. Variable tolls to manage congestion would be evaluated at a future date, as well as the technology to be used. As the technology in the industry is rapidly changing, it is premature to commit to a technology at this time.*

***Will the technology be compatible with other toll collection technologies in the area?***

**Response:** *Yes. Lee County's technology is currently interoperable with all other toll technologies in Florida.*

**Will toll booths be needed, which may require additional right-of-way at some locations, and create traffic backups?**

**Response:** *This would be determined at a later date if tolling is selected to fund the project. However, the County may consider CR 951 as a "no cash transaction" facility and toll only with open road tolling.*

**Will the roadway be owned and maintained by FDOT, Lee County, Collier County or a private entity, and for how long?**

**Response:** *The ownership and maintenance of the facility could be a combination of all the previously mentioned entities; however, it is premature to make that determination at this time. Now that Florida legislation has changed, there are many public-private partnership arrangements possible.*

**What type of tolling agreement will be needed?**

**Response:** *It is premature to commit to a tolling agreement as the type of agreement will be determined by the owner/operator selected for the project if tolling is selected as the funding option.*

24. **Indirect and Cumulative Effects Analysis:** This analysis was requested specifically by EPA as noted in their comments on page 5-14, and needs to be provided. The cumulative effects analysis should focus on cumulative development impacts on resources and should compare the limited access toll alternative with the Suburban Arterial. This is particularly important due to the intended objective of serving local and regional traffic, and since, as noted in Section 4.1.3, "the limited access toll road option would have less potential for secondary and cumulative impacts resulting from increased development as compared to the controlled access option due to a fewer number and type (interchange versus at-grade intersection) of access points."

Section 4.3.6 on page 4-23 concerning Aquatic Preserves states that "Estero Bay will not be directly affected by the proposed project, but will be addressed in the project evaluation in terms of assessing secondary and cumulative impacts." A reference to where this evaluation can be found is needed.

The indirect/secondary effects (such as water quality, Imperial River OFW, impacts to the Florida panther, etc.) have been addressed in various sections of the report. A summary paragraph noting these should also be included. Additionally, the indirect and cumulative effects on the Cocohatchee flow-way, canal and river (an impaired water body), and Wiggins Pass (Estuarine Area and OFW) will need

to be assessed as requested in the August 20, 2003 letter from the nongovernmental organizations.

**Response:** *Indirect and Cumulative Effects were addressed for specific natural resources and were discussed in individual sections. Funding for the project has not yet been determined, therefore there is not a discussion comparing the cumulative effects of a toll road with the suburban arterial facility in the DEIS. As indicated in the response to Comment #23, the typical section for CR 951 has been revised to reflect a four-lane, high speed limited access facility with the option that it may eventually become a toll road.*

*A statement regarding the secondary and cumulative impacts concerning Estero Bay has been added to Section 4.3.6 on page 4-25 and a statement regarding the Cocohatchee flow-way and Wiggins Pass has been added to Section 4.3.7 on page 4-25. A discussion that summarizes the indirect/secondary effects of the proposed project has been added on page 4-41 in Section 4.4 Summary of Environmental Consequences of the DEIS.*

25. **Noise:** Section 4.3.4 identifies noise sensitive sites for the build alternatives. The concluding paragraph indicates that traffic system management techniques, alignment modifications and property acquisition are not feasible and reasonable abatement measures, but that land use controls could be used. There needs to be a discussion of areas where the need for noise walls would be likely, as well as a discussion of how land use controls could be used for abatement.

**Response:** *A noise study has been conducted and submitted for the CR 951 project. As a result of this study, noise abatement measures such as noise walls were determined to be neither reasonable nor feasible. A discussion of how and where land use controls could be used for noise abatement has been added to the DEIS on page 4-16.*

26. **Wetlands:** Section 4.3.5, on page 4-18 states, “A more dramatic reduction in wetland impact can be achieved by elevating the roadway on pilings in wetland areas” and “is already the recommended means of construction for parts of CR 951 across wetland systems identified as critical flow ways.” This recommendation should be better documented. This technique should be included as a commitment on page 4-20 as part of the bulleted items.

Additionally, page 4-20 states that “All measures to avoid and minimize impacts to wetlands have been employed to the extent practicable.” This statement does not seem to be supported by the typical sections proposed (250 feet for a 4-lane road). This apparent inconsistency should be addressed in the DEIS.

**Response:** *As indicated in the previous responses to comments #11, #13 and #23, the typical section for CR 951 has been reduced from 250 to 190 feet for a four-lane limited access facility in order to minimize impacts. Due to the size of the*

*study area, wetland impacts were used as an evaluation tool to identify those alternatives with the least amount of impacts. Additional measures to minimize potential wetland impacts (ie: bridging, etc.) will be conducted following the selection of the preferred alternative. The Final EIS will include a wetland and floodplains findings and a list of commitments for mitigation measures for the preferred alternative.*

27. **Outstanding Florida Waters:** Section 4.3.8 notes that Kehl Canal, a tributary to the Imperial River, which is a designated Outstanding Florida Water, is located within the study area. This section needs to also indicate how the OFW will be impacted and addressed by the project.

**Response:** *Section 4.3.8 on page 4-26 of the DEIS has been revised. The Kehl Canal connects to the Imperial River, part of the Estero Bay Tributaries, which are designated as a Special OFW. No portion of the extent of the Estero Bay Tributaries, as mapped OFW by the Florida Department of Environmental Protection (FDEP), will be directly impacted by any of the proposed roadway alignment alternatives. The FDEP delineation of the Estero Bay Tributaries begins west of the Imperial River/Kehl Canal crossing under Bonita Grande Boulevard. However, since all potential alignment alternatives will cross Kehl Canal, it is likely that some stormwater drainage from the project will outfall to Estero Bay via the Kehl Canal and the Imperial River. Therefore, portions of this project with drainage sub-basins that drain to the Kehl Canal will need to be designed to additional water quality requirements, typically 50% additional treatment.*

28. **Wildlife Crossings:** Section 4.3.13 discusses wildlife crossings on page 4-28. This page includes the statement, “Impacts will be further minimized by the construction of wildlife crossing places at strategic intervals along the corridor to reduce the potential for vehicle collisions.” The details of these proposed crossings to mitigate for wildlife impacts, including the number/location and type of crossings, should be provided in the EIS as these specifics are determined in coordination with the applicable agencies. The paragraph at the top of page 4-29 does not flow well from the preceding page due to redundancies and should be rewritten.

**Response:** *Section 4.3.13 on page 4-33 of the DEIS has been revised to include the results of coordination efforts between Lee County, USFWS and the FFWCC regarding potential CR 951 wildlife crossings.*

29. **Wildlife Impacts:** This section continuously makes the conclusion for each species that if the project is constructed, it may affect, but is not likely to adversely affect the specific species. These conclusions should state that, in order to not adversely affect a specific species, Section 7 Consultation has been initiated. The outcomes of these consultations should be noted (including project commitments, if possible) as they become available.

**Response:** *On page 4-36, this section was rewritten to state that the project team underwent informal consultation with USFWS during the project study. During informal consultation, it was indicated that the USFWS would issue a “may affect, not likely to adversely affect” biological determination for the appropriate species. However, formal determinations of effect will not be available for each species until formal Section 7 Consultation with USFWS has been conducted, as part of the design and permitting process. Additional coordination will be required with USFWS concerning specific species.*

30. **Notice of Intent:** Please include the Notice of Intent in the Appendix. It is referenced in Section 5.3, but a copy of this has not been included. Additionally, Appendices A and B are located prior to the tab section for the appendices and should be moved.

**Response:** *The Notice of Intent has been included in Appendix B. Appendix tabs have been labeled to avoid confusion.*

31. **List of Preparers:** Please expand the List of Preparers to include FHWA staff that will likely be very involved in the preparation of the EIS, namely George Hadley and Cathy Kendall. It is likely that there will be more FDOT staff than just Dick Combs who will be very involved in the preparation of the EIS; therefore these FDOT staff should be included as well.

**Response:** *The List of Preparers on page 6-1 has been expanded to include appropriate FHWA and FDOT staff.*