Conservation 20/20
Oil, Gas & Mineral Rights

October 18, 2016
Board of County Commissioners
Lee County, Florida
Overview

• OGM Rights
• Historical Lee County Practice
• Why This is an Issue

Survey of Other Conservation Programs

Proposed Process

• Provide more flexibility to pursue acquisitions
  • Decide on a case-by-case basis whether to pay for OGM related rights
Oil, Gas & Mineral Rights

Control of Mineral Rights can be Severed from Surface Rights and Sold to a Different Owner

Mineral Estate is Dominant and its Owner “…..has the right of ingress and egress to explore for, locate, and remove the minerals…..”

-P&N Inv. Corp. v. Florida Ranchettes, Inc., 220 So. 2d 451, 454 (Fla. 1st DCA 1968)
Historical Practice

Unified Property Rights
(Surface & Subsurface Estates Held by Same Owner)

Acquire Fee Simple

Severed Property Rights
(Surface & Subsurface Estates Held by Separate Owners)

Purchase OGMs if Willing Seller

Right-of-Entry is Barred

Released by OGM Owner Via Fee

OR

Title Company Insures Release

OR
Florida Oil & Gas Areas
South Florida Oil

Oil in South Florida

Legend
- Fort Myers Beach
- Offshore
- Upper Sunniland
- Lower Sunniland

Source: Oil, Gas & Geothermal Resources Committee of Southwest Florida 2005 National Oil and Gas Assessment. Continued and Hypothetical Plays.
Oil Fields

Oil & Gas Mineral Resources in Florida’s Future Presentation, Lampl Herbert, (May 2002)
Construction Aggregates

Sufficient Supply to Meet Demand Through 2030

Regional Deficit Projected After 2030

-Southeast Lee County DRGR Resource Mining Study, Waldrop Engineering (September 2016)

Aggregates: Limerock Base, Fill Materials, Fine & Coarse Aggregates that can be Produced at Commercial or FDOT Quality Standards
## Current Situation

- **Surface and Subsurface Estates Severed on Large Land Tracts**
- **OGM Owners Increasingly Reluctant to Sell Rights**
- **OGM Owners Either Refusing to Release their Right-of-Entry or Charging ~10% Fee to Do So**
## OGMs Approach – Other Locations

<table>
<thead>
<tr>
<th>Location</th>
<th>Will Purchase Without OGM Ownership</th>
<th>Require Right of Entry Removed?</th>
<th>How Purchase?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hillsborough County</td>
<td>Yes</td>
<td>No</td>
<td>Attempt to Get Right of Entry Released; if Not, Do Case-by-Case Risk Assessment</td>
</tr>
<tr>
<td>Pinellas County</td>
<td>Yes</td>
<td>No</td>
<td>Acquired &quot;As Is&quot; Without Regard to OGMs or Rights-of-Entry</td>
</tr>
<tr>
<td>Charlotte County</td>
<td>Yes</td>
<td>No</td>
<td>Acquired &quot;As Is&quot;</td>
</tr>
<tr>
<td>Collier County</td>
<td>Yes</td>
<td>No</td>
<td>Don't Address OGMs; Define Access on Two Properties that have Active Wells</td>
</tr>
<tr>
<td>Polk County</td>
<td>Yes</td>
<td>No</td>
<td>Attempt to Get Right of Entry Released; but will Acquire if it is in Place</td>
</tr>
<tr>
<td>Palm Beach County</td>
<td>Yes</td>
<td>Yes</td>
<td>Release of Right of Entry Required</td>
</tr>
<tr>
<td>State of Florida</td>
<td>Yes</td>
<td>No</td>
<td>Handle on a Case-by-Case Basis</td>
</tr>
<tr>
<td>SFWMD</td>
<td>Yes</td>
<td>No</td>
<td>Prefer Removal of OGMs; but will Evaluate on a Case-by-Case Basis</td>
</tr>
</tbody>
</table>
Subsurface Rights Evaluation Process

Can Entry Be Barred?

YES

- Holder Relinquishes
- Condemnation

Risk Assessment

Pay for Release

Forego Release

NO

Risk Assessment

Next Slide
Proposed Acquisition Process

BoCC/Staff

Staff Identifies Parcel

CLASAC

Willing Seller Application

Seller Approaches County

Willing Seller Application

CLASAC Review & Recommendation

OGM Status Report

BoCC Decision on Whether to Get Appraisal and Begin Negotiation

Staff Negotiates

CLASAC Votes on Recommendation for Negotiated Terms & Price

BoCC Votes on Whether to Purchase

Staff Performs Due Diligence and Closes