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**State of Florida Division of Administrative Hearings finds in favor of Lee County;  
Recommends Florida Department of Economic Opportunity confirm Lee County's 2019 Plan  
Amendments, Mining**

*DOE Order Expected this month Related to Mining in Map 14, State Road 82*

Fort Myers, FL, July 1, 2020 – The State of Florida Division of Administrative Hearings on June 16 ruled against Sakata Seed Corporation, Sakata America Holdings, Inc. and Linda S. Nelson and issued a recommended order finding in favor of Lee County. The Honorable Administrative Law Judge, Francine M. Ffolkes (ALJ), found that the County's 2019 Mining Lee Plan Amendments (CPA2018-10014) were supported by appropriate data and analysis and consistent with State law.

"Lee County is one step further toward resolving regulatory ambiguity on the mining issue," Commissioner Cecil Pendergrass said. "After two years of not being able to talk about this pending case, I'm happy that residents and businesses now are informed of the true facts. Some individuals and groups tried to make this issue a political platform and provided false information to the public. The courts have ruled that Lee County staff's work and commissioners' actions were consistent with land-use laws, and the community and environment have been protected."

Throughout the public hearings for adoption of the 2019 Plan Amendments, the Opposition to the Plan Amendments, lead primarily by Sakata Seed Corporation, Sakata America Holdings, Inc., and its paid marketing firm disseminated information to the Public that:

- the 2019 Plan Amendments were inconsistent with State Law;
- the removal of Map 14 would lead to deregulation of mining in Lee County; and
- the existing Lee Plan provisions were not vague or ambiguous and should be maintained.

During the Administrative Hearings, Petitioners carried those arguments to the ALJ. The ALJ's June 16 Order rejected all of the above arguments.

"If you review the court documents, it's clear there was a formal misinformation campaign," County Manager Roger Desjarlais said.

Specifically, the ALJ found that the Petitioners' Expert, Bill Spikowski, who was primarily responsible for drafting the Plan Amendments pertaining to limerock mining, testified at trial that "much of the language contained in the 2010 Amendments [limerock mining amendments] was intentionally vague and ambiguous to allow 'elected official to use judgment under changed circumstances.'"

At no time during the public hearings for adoption of the 2019 Amendments did Petitioners or their experts divulge that secret to the public or the Board.

The ALJ further found that neither of Petitioners' consultants – Spikowski and Greg Stuart – could cite any provision in State Law to support their arguments and that Stuart failed to demonstrate that the 2019 Mining Comp Plan Amendments created any actual internal inconsistencies with any provision of the Lee Plan. The ALJ also ruled that the Petitioners' claim that the 2019 Plan Amendments deregulated mining was not persuasive and was contrary to the evidence presented at trial.

Most importantly, the ALJ specifically confirmed the County's position that the 2019 Plan Amendments did not deregulate mining in Lee County. The ALJ found that "under the 2019 Plan Amendments limerock

mining continued to be regulated by the Lee Plan” and that Chapter 12 of the Lee County Land Development Code “extensively regulated limerock mining even after the 2019 Plan Amendments.”

Based on these findings, the ALJ recommended that the Department of Economic Opportunity (DEO) “issue a final order determining that the 2019 Plan Amendments adopted by the County on June 19, 2019, are in compliance” with State law.

A final order from the DEO is expected later this month. For more information, visit [www.leegov.com/mining](http://www.leegov.com/mining).