

While the Code requires a traffic study to be submitted with the application, the above colloquy confirms continued study in the future which runs counter to the premise that the Code would require such a study to be in existence to *assure no degradation of road infrastructure* (as required by 50-719(6)) and/or assurance *that the mining operation would not be detrimental to the areas residents or businesses, or the public health, safety, or welfare of the community as a whole* (as required by 50-719(11)). Future plans to complete a traffic study is not what is contemplated by the applicable Code.

- b. **Wildlife Impact Study:** An additional safeguard and requirement of the applicable Code contemplates a completed wildlife impact study prior to Application approval. In the record evidence submitted, transcripts of the following hearing reveal such a requirement was not met prior to approval (transcript Page 19 line 18 through page 20 line 4 of the February 6, 2024, transcript of proceedings before the BOCC filed with the Clerk of Court at docket entry no. 8):

MS. HECTUS: Number 12: Meet all FWC and DEP 19 threatened and endangered species guidelines and regulations for habitat protection and restoration.

MR. VANDEURSEN: That's not a problem Mr. Thomas has been in conversations with FWC, and ***we're kind of waiting to go forward with that*** because creatures or animals can come and go on the property. If we would have done this in May, 2 it's different today than what it was then. So we want to -- ***we want to be able to move forward, and we will comply with that.***

The position articulates a desire to move forward with approval prior to compliance with the requirement of having a wildlife impact study completed before any such approval. While a proffered hypothetical explanation is offered, without substantively ever being corroborated as being reasonable and/or in conformity with the Code, non-compliance with the Code's expectations and directives remains. A willingness to comply in the future does not equate to the requirement of actual compliance at the time of approval of Application.