

RESOLUTION R-16-123 – MASTER MINING PLAN

RESOLUTION NO. 16-123

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, GRANTING MOSAIC FERTILIZER, LLC A MASTER MINING PLAN FOR THE WINGATE EAST MINE ($\pm 4,341$ ACRES); AUTHORIZING MINING AND RECLAMATION ON THE WINGATE EAST MINE; ESTABLISHING NEW CONDITIONS OF APPROVAL FOR MINING WITHIN THE WINGATE EAST MINE; APPROVAL FOR CONSTRUCTION OF CLAY SETTLING AREA; MODIFYING RECLAMATION SCHEDULES AND ENFORCEMENT; MODIFYING THE ENVIRONMENTAL MONITORING PROGRAM; GRANTING WAIVER REQUEST OF SETBACK REQUIREMENT FOR MINING ADJACENT TO DUETTE PARK; GRANTING WAIVER REQUEST OF SETBACK REQUIREMENT FROM OFFSITE WETLAND; GRANTING WAIVER REQUEST OF SETBACK ADJACENT TO DUETTE ROAD; SPECIAL APPROVAL FOR MINING WITHIN PEACE RIVER WATERSHED; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR AN EXPIRATION DATE; APPROVING A BUILDOUT DATE FOR MINING UNTIL SEPTEMBER 15, 2037 AND RECLAMATION UNTIL SEPTEMBER 15, 2041

The Wingate East Mine, consisting of $\pm 4,341$ acres, is east of Wingate Creek Mine, south of Southeast Tract, approximately 2 miles north of SR 64, and along both sides of Duette Road in Sections 13, 22-27, and 34, Range 22 East, Township 34 South, in Duette, Florida.

P.C.: 08/18/16

B.O.C.C.: 09/15/16

RECOMMENDED MOTION

Based upon APPROVAL of the Zoning Ordinance (Ord. No. Z-14-09), the staff reports, evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and Manatee County Ordinance 04-39 (“The Manatee County Phosphate Mining Code”) as conditioned herein, I move to recommend ADOPTION of Resolution R-16-123, Master Mining Plan, as recommended by staff.

CASE SUMMARY

APPLICANT: Mosaic Fertilizer, LLC

REQUEST: Approval of a Resolution, R-16-123, of a Master Mining Plan for Wingate East Mine

STAFF RECOMMENDS: APPROVAL

REQUEST, LOCATIONAL INFORMATION AND LAND USE CHARACTERISTICS

The request is for approval of a Resolution granting Mosaic Fertilizer, LLC a Master Mining Plan (MMP) for the Wingate East Mine (approximately 4,341 acres) to:

1. Approve the limits of mining and disturbance to include $\pm 3,837$ acres to allow mining activities. The project limits are inclusive of Wingate Extension (661 acres) and the majority of Wingate Corridor (± 102 acres), which have previously been rezoned and approved for mining activities;
2. Approve the impacts to 686 acres of jurisdictional waters, including 649 acres of wetland habitats;
3. Use the Wingate Creek Mine Beneficiation Plant and other mine infrastructure elements such as truck routes for shipping and well water withdrawals;
4. Construct a clay settling area, WE-1;
5. Approve waste clay disposal plan for WE-1 and modify waste clay disposal plan for the use of clay settling areas (FM-1 & FM-2) at the Southeast Tract;
6. Special approval to mine and disturb within the Peace River Watershed Overlay District (367 acres);
7. Amend the Wingate Extension Environmental Monitoring Program to include Wingate East Mine;
8. Modify the Wingate Extension Reclamation Plan to include Wingate East Mine;
9. Relocate the Wingate Corridor and continue its use until FM-1 and FM-2 are reclaimed;
10. Setback reduction from 200' to 140' along both sides of Duette Road;
11. Setback reduction from offsite wetland on Duette Park from 1,000' in order to perform mining activities, including construction of clay settling area (CSA) WE-1 and for the placement of slurry pipelines and pumps. No mining extraction activities to occur within 1,000' of wetland; and
12. Setback reduction along Duette Park from 500' to 100' for the placement of slurry pipelines and pumps. No extraction activities or construction of CSA WE-1 to occur within 500' of Duette Park.

Background

The Wingate East Mine (aka Texaco Tract) is located in the eastern portion of Manatee County. The site is located adjacent to Wingate Creek Mine, Winding Creek rural Subdivision, Duette Park, Southeast Tract Mine and agricultural lands.

Wingate Creek Mine was originally approved for mining in 1975 as a Development for Regional Impact (DRI-5) and Special Exception Permit (SE-774) in the A (General Agricultural) zoning district. Later, when the Manatee County Land Development Code was revised, the zoning of the Wingate Creek Mine was changed/amended to the EX zoning district. The Southeast Tract was approved by Manatee County in December 2000 for phosphate mining. In 2008, Wingate Utility Corridor (Ordinance R-08-009) linked the two operations. In 2012, Wingate Extension (Ordinance R-12-01) authorized extraction in areas not containing Corps-jurisdictional wetlands while the Area-wide Environmental Impact Statement (AEIS) was being prepared. The Final AEIS was issued in April 2013 and an addendum was issued in July 2013. The U.S. Army Corps of Engineers (USACOE) has yet to issue the Wingate East dredge and fill permit and Record of Decision, including a public interest review analysis and mitigation framework. Pursuant to House Bill 7207, soil mineral mine applications are no longer required to go through the Florida Development of Regional Impact (DRI) process.

Land uses in the surrounding area are agricultural, mining, conservation, and low density residential. Jurisdictional waters (i.e., wetlands and surface water features jurisdictional to the state of Florida) proposed impacts and reclamation are summarized in the table below.

Table 1. Jurisdictional waters of the state – wetlands and surface water features within the project area.

	Project Acres	Impacts Currently Permitted*	Proposed Impacts	Proposed Preservation	Proposed Wetland Reclamation
Forested Wetlands	577	0	178	335	327
Non-forested Wetlands	464	62	409	56	463
Open Water Features	38	3	34	1	
Total Acres	1,079	65	621	392	790
	Total Jurisdictional Waters Impacts 686			Total Post Reclamation 1,182	

*Resolution R-08-009, Southeast Tract Mine and Resolution R-12-01, Wingate Extension.

The MMP is accompanied by a request to rezone ±3,595.9 acres from A zoning district to EX (Extraction). The remaining acreage was rezoned to EX in 2008 (Wingate Creek Utility Corridor) and 2012 (Wingate Extension).

This MMP will replace Wingate Extension MMP, R-12-01, in its entirety. Approval of this Master Mining Plan will necessitate amendments to Wingate Creek Mine (R-13-001) and Southeast Tract (R-08-009). The amendments should include the following items to accommodate Wingate East Mine:

- (a) Update & amend the Wingate Creek Mine Transportation Analysis,
- (b) Amend the termination date for Wingate Creek Mine,
- (c) Update & amend the clay disposal plan for Southeast Tract, and
- (d) Amend the termination date for Southeast Tract.

These amendments are required to comply with Phosphate Mining Code (Ordinance 04-39).

All Standards and Conditions in Ordinance 04-39 will apply to Wingate East Mine.

POSITIVE ASPECTS OF THE APPLICATION

- A.1 This area of Manatee County contains mostly phosphate mining lands, agricultural lands, or conservation lands, with low density residential (including Winding Creek Subdivision).
- A.2 Wingate Creek Beneficiation Plant has recently completed washer upgrades to improve phosphate recovery.
- A.3 No change to County services such as EMS, fire protection, police protection, schools, parks or other services will be required.
- A.4 No additional well water withdrawals.
- A.5 Approximately 30% of Wingate East Mine has been subject to agricultural conversion.
- A.6 All proposed mining activities will occur outside of the Lake Manatee Watershed Overlay District (WOD).
- A.7 No perennial streams to be mined or disturbed.
- A.8 The applicant is proposing to avoid the 100-year floodplain of the upper Myakka River, the West Fork of Horse Creek and wetlands functionally integrated with the upper Myakka River and the West Fork of Horse Creek.
- A.9 Seventy-six percent (76%) of high quality wetlands (UMAM value ≥ 0.70) will be avoided.

NEGATIVE ASPECTS OF THE APPLICATION

General Mining

- B.1 The applicant is proposing to construct a 595-acre clay settling area (CSA) within 500 feet from the Lake Manatee Watershed boundary.
- B.2 The Winding Creek rural subdivision is located directly west of the proposed mine.
- B.3 The mine will require a modification to the Southeast Tract Mine Master Mining Plan for the extension of mine life of an additional 19 years, which includes the use of clay settling areas FM-1 and FM-2.

Special Approval

- B.4 The applicant proposes to mine and disturb 279 acres of land in the Peace River WOD, including 9.5 acres of isolated wetland habitats.

Jurisdictional Waters

- B.5 The applicant proposes to impact 19,916 linear feet of natural stream channels, ditched stream channels and sloughs.
- B.6 The applicant proposes to mine and/or disturb 686 acres of jurisdictional waters: 37 acres of surface water features and 649 acres of wetlands (See Table 1 above). Wetland impacts include 69 acres of wetlands with UMAM Scores of 0.70 or greater and are forested in composition.

Listed Species

- B.7 Listed wildlife species observed on or near Wingate East Mine include: wood stork, Eastern indigo snake, crested caracara, Florida scrub-jay, bald eagle, gopher tortoise, Florida sandhill crane, gopher frog, Sherman's fox squirrel, Florida burrowing owl, Southeastern

American kestrel, Florida mouse, snowy egret, little blue heron, tricolor heron, white ibis, and American alligator.

Additional Items

B.8 The applicant is requesting to permit mining activities in wetlands that are currently encumbered by the Texaco Tract Wetland Contract, per Section 6.E.(3) of Ordinance 08-32 and Condition 37 of R-09-010 for Altman Tract, Parcel #4.

B.9 The applicant is proposing to impact the 25-year floodplain of an unnamed tributary of the Myakka River (aka Stream 100) (26 acres) and wetlands functionally integrated with the 25-year floodplain of Stream 100.

B.10 The Wingate East Mine will require a modification to the Wingate Creek Mine Master Mining Plan for the extension of mine life of an additional 17 years, which includes trucking and processing of phosphate ore at the beneficiation plant.

MITIGATING FACTORS

General Mining

C.1 The applicant is proposing an isolator/deflector berm adjacent to the boundary of the Lake Manatee watershed to divert any potential dam failure waters from the CSA that might otherwise enter the Lake Manatee watershed. All slurry pipelines within 500 feet of the Lake Manatee watershed will be secondarily contained behind the 12-foot high isolator/deflector berm. Additional containment measures include flange guards at pipe joints and inspections twice per shift as additional protection from an unlikely unintended discharge event.

C.2 The mine plan includes a 500-foot setback from the adjacent Winding Creek rural subdivision with wetland and upland preservation components and upland enhancement measures to be set aside under a Conservation Easement.

C.3 Extending the use of CSA FM-1 and FM-2 on Southeast Tract will result in the reduction of size of CSA WE-1 on Wingate East Mine.

Special Approval

C.4 The applicant is proposing to preserve the 100-year Floodplain in the Peace River Watershed Overlay District (WOD), including 70.2 acres of wetlands and 17.4 acres of uplands. In addition, the mining plan includes a 50-foot buffer zone around the 100-year Floodplain during mining, 50-foot wetland buffers around wetlands in post-mining, the adherence to Best Possible Technologies (outlined in Exhibit D of the MMP), and accelerated sand tailing placement to expedite reclamation.

Jurisdictional Waters

C.5 The applicant proposes to recreate 21,530 linear feet of stream channels on Wingate East. In addition, the Overriding Public Benefit proposal targets acquisition of parcels within the upper Myakka River with stream and slough enhancement opportunities. The Myakka River Headwaters Offsite project will preserve and recreate 7,920 linear feet of stream in the upper Myakka River watershed. Manatee County will be the grantee of a Conservation Easement over the Overriding Public Benefit parcels.

C.6 Approximately 11% (498 acres) of the project area (4,341 acres) will be preserved. Onsite preservation includes 392 acres of wetlands, 55% of which have UMAM scores of 0.7 or greater. Wetland impacts will be mitigated at a 1:1.15 ratio, approximately 735 acres of

wetland reclamation will be constructed on site. In addition, the applicant has offered to implement two Overriding Public Benefit projects of regional significance in the upper Myakka River watershed that will directly benefit the public in terms of improved water quality, biological, and hydrologic condition: 1) Myakka River Headwaters Offsite project and 2) \$2.5 million dollar donation to the Manatee Community Foundation to acquire a parcel for preservation in the upper Myakka River watershed in Manatee County or to enhance an existing project with similar environmental benefits as the Myakka River Headwaters Restoration Project. The applicant has proposed granting Manatee County a Perpetual Conservation Easement over the onsite preservation, reclaimed wetland habitats and streams, and Overriding Public Benefit parcels.

Listed Species

C.7 The applicant will coordinate with USFWS and Florida Fish and Wildlife Conservation Commission (FWC) to implement the Wildlife Habitat Management Plan and manage wildlife during mining and reclamation. Current management techniques include, but are not limited to: pre-clearing wildlife surveys, directional clearing toward preservation areas, clearing during the non-nesting season, species relocation/restocking, and sequencing habitat restoration/reclamation as mining progresses across the project site. Preservation areas include both wetland and upland habitats.

Additional Items

C.8 Pursuant to the Master Mining Plan and Escrow Agreement for the Altman Tract - Parcel No. 4, an Operating Permit for the Texaco Tract Wetland Contract areas cannot be approved until such time as the wetland reclamation commitment has been met by the applicant.

C.9 The Master Mining Plan has been conditioned so that no mining activities shall occur below the 25-Year Floodplain* elevation of Stream 100, except for a temporary stream crossing, unless the applicant provides site-specific mitigating measures for water quantity and water quality, such as an alternate flow way or other hydrologic supplementation, during Operating Permit application. The applicant is also required to demonstrate compliance with the Texaco Tract Wetland Contract, Section 6E.(3) of Ordinance 08-32 prior to impacting the wetlands functionally integrated with the 25-Year Floodplain of Stream 100 location in Sections 27 and 34 of the project areas.

STANDARDS FOR MASTER MINING PLAN APPROVAL

Section V.A.7 of Ordinance 04-39 requires the following determination: “No master mining plan application shall be recommended by the Planning Commission or approved by the Board unless it is found that such application is consistent with the Comprehensive Plan and this Ordinance.”

1. Are the mining activities reflected in the MMP consistent with the Manatee County Comprehensive Plan and Ordinance 04-39 (Phosphate Mining Code)?

Staff Response: Staff has determined the application is consistent with the Comprehensive Plan and Ordinance 04-39 with special consideration on items detailed below.

- **Special Approval to Mine in the Peace River Watershed Overlay District:** Approximately 367 acres of the project are located within the Peace River WOD. Mosaic has requested Special Approval to mine and disturb 279 acres within the Peace River WOD. This request includes mining 9.5 acres of isolated wetlands (Wetland IDs 24-5 and 25-4) within the Peace River watershed.

The provisions under Section I.G.1-3 of Ordinance 04-39 allow the BOCC to grant Special Approval of mining activities in the Peace River WOD.

Staff Response: Staff has reviewed the proposal to mine within the Peace River WOD and finds it sufficiently addresses Section I.G. 1-3 of Ordinance 04-39. The applicant has provided competent and substantial evidence that mining activities will not cause a degradation of water quality or adverse impacts on water quantity within the affected watershed when employing best possible technology (BPT) and best operating practices (BOPs), as identified in Appendix D of the Master Mining Plan.

The Ardaman & Associates Cumulative Impact Analysis demonstrated that the mining and reclamation of the Peace River basin will not adversely alter the water quantity of the West Fork of Horse Creek during mining or after the completion of reclamation, when utilizing the ditch and berm system and the NPDES D-004 outfall as designed. Changes in water quality parameters (conductivity, TDS and sulfate) have been noted in the West Fork of Horse Creek Basin (Horse Creek Stewardship Program 2013 Annual Report) but are not directly linked to mining impacts. Comprehensive environmental monitoring and trend analyses will continue to assess water quality parameters to verify groundwater and surface water quality remain within baseline conditions and do not cause or contribute to impairments downstream.

To further prevent water quality impacts or loss of wildlife habitat, the applicant is preserving 50-foot upland buffers adjacent to all No Mine Areas in the 100-year Floodplain. The applicant has committed to the following: accelerated sand tailings and contouring, innovative reclamation techniques and additional environmental monitoring activities. The applicant is creating 16.6 acres of wetlands within the Peace River watershed, which is a 1:1.7 ratio.

Based on the above facts, staff recommends granting Special Approval to mining in the Peace River watershed.

- **Mining below the 25-yr Floodplain elevation for Stream 100 and Wetlands Functionally Integrated with perennial stream or 25-yr Floodplain:** The applicant is proposing to mine in the 25-yr floodplain of an unnamed tributary of the Myakka River (aka stream 100). The proposed mining would impact 26 acres, including 4.8 acres of wetlands and 21.3 acres of uplands. The applicant is also proposing to mine wetlands that are functionally integrated with the 25-yr floodplain of stream 100 within Section 27 and 34. The applicant has avoided the 25-yr floodplain for the West Fork of Horse Creek and the upper Myakka River. The applicant has avoided impacting wetlands that are functionally integrated with the West Fork of Horse Creek and the upper Myakka River.

Stream 100 is the downstream confluence of canal A (through channel 105b), ditch network B, and channels 106 and 107, which connects headwater wetlands to the upper Myakka River downstream of the Wingate East Mine. Stream 100 is a low order stream with a small alluvial floodplain that is vegetated with mixed wetland hardwoods, flatwoods, oak hammocks, and agricultural lands. Extensive upstream ditching has resulted in shortened hydroperiod and reduced flood storage capacities of headwater wetlands (Riparian Wetland Analysis March 2016). Stream 100 has experienced incisions due to increased water flow from upstream systems. Many of the water conveyances and headwater wetlands have been altered by historical agricultural and land clearing practices, diminishing the hydrological, biological and chemical functions provided (Stream Mapping, Assessment, and Reclamation Design Guidance June 2016).

The Updated Streamflow/Baseflow Cumulative Impact Analyses (Ardaman & Associates, Inc. May 2015) and supplemental responses concluded that the mining and reclamation of the Wingate East will not adversely alter or impact the water quantity or water quality of the Myakka River during mining or after the completion of reclamation. The Riparian Wetland Analysis (Ardaman & Associates, Inc., AMEC Foster Wheeler, and Flatwoods Consulting Group March 2016) concluded that mining within the 25-yr floodplain of stream 100 is “unlikely to adversely affect water quality, water quantity or significant natural habitats in ways that cannot be reliably mitigated.” The Riparian Wetland Analysis also determined that the only wetlands that are functionally integrated with stream 100 are those within the alluvial floodplain, which the applicant has proposed not to mine.

Staff Response:

Key Concepts: The provisions under Section I.E.2-3 of Ordinance 04-39 restrict mining activities within the 25-year floodplain and wetlands functionally integrated with the 25-year floodplain or perennial streams as defined below:

“2) With the exception of temporary crossings, as identified and approved in a master mining plan and operating permit, phosphate mining activities below the 25-year floodplain elevation shall be prohibited, unless the applicant can demonstrate through competent and substantial evidence that mining activities could occur in the 25-year floodplain and that the floodplain system could be reclaimed or recreated without adverse effects to water quality, water quantity or natural habitats therein.

3) There shall be no mining activities, as defined in this Ordinance, in wetlands that are functionally integrated with 25-year floodplains or perennial streams unless the applicant can demonstrate through competent and substantial evidence that mining could occur in such wetlands and that they could be reclaimed or recreated without adverse effects to water quality, water quantity or natural habitats or species therein.”

“Functionally integrated” is not a term that is defined in Ordinance 04-39 or the Comprehensive Plan. The County has historically interpreted this term to mean hydrologically connected and in a landscape position where the functions and attributes (i.e., biological, chemical, energy cycles, wildlife movements) have a significant influence on downstream waters. Because Ordinance 04-39 specifically

describes wetlands that are functionally integrated with the 25-year floodplain or perennial stream, it is Staff's interpretation that these particular wetlands do not have to be below the floodplain elevation to be functionally integrated with the floodplain.

The 25-year floodplain of stream 100 provides water quality treatment, energy dissipation, moderation of groundwater flow, nutrient cycling, organic carbon export, flood storage during flood events and habitat functions. The majority of the habitat within the floodplain are in a natural state. However, upstream impacts have altered the stream in such a way that some of these functions have been diminished.

Moderate- to high- quality forested wetlands are hydrologically connected to stream 100 via natural stream segments 104a and 104b and altered stream segments 105b, 106, and 103b. Stream 107a is a first order stream channel where upstream waters have been diverted from this flow way. The applicant has asserted that these wetlands cannot be functionally integrated because they are not supported by overbank flow (i.e., they are not alluvial wetlands). As described by Brinson (Wetlands Vol. 13, No. 2 June 1993), wetlands important to the protection of stream quality along first- and other low-order streams are forested wetlands. Although these wetlands are not driven by overbank flow as in higher order stream, wetlands along first-order streams protect streambanks from erosion, moderate stream temperatures by shading the water, process nutrients from uplands and are connected via natural channels or surficial aquifer. This is supported by the applicant's reports that ditching and straightening of first-order stream segments has resulted in erosion and incision of downstream channels.

Conclusions: Staff does not agree that the applicant has demonstrated by competent and substantial evidence that the proposed mining in the 25-year floodplain of stream 100 can satisfy Ordinance 04-39 without site-specific mitigating measures. The Updated Streamflow/Baseflow Cumulative Impact Analyses assumes a 100% reduction in flow during mining. Due to the current condition of the stream, mining the floodplain without adequate mitigating measures may further impact the function of the system. Staff recommends that no impacts to any part of stream 100 25-year floodplain, depicted on Figure 8 of the Riparian Wetland Analysis as "Extent of 25YR Flood Elevation", except for a temporary crossing, unless the applicant provides site-specific mitigating measures for water quantity and water quality, such as an alternate flow way or other hydrologic supplementation. In addition, Staff recommends a 30-foot Buffer Zone around the No Mine Area during mining. The Buffer Zone will consist of native vegetation, where existing. The stipulations in the Master Mining Plan reflect this Staff recommendation.

Staff does not concur with the applicant's findings that no wetlands subject to mining restrictions occur outside of the 25-yr floodplain of stream 100. Several moderate- and high- quality functioning wetlands are connected via natural streams, altered channels and sloughs. These forested systems provide water quality and habitat functions that support the functioning of stream 100. In addition, these wetland systems are also located in the Texaco Tract Wetland Contract area. In accordance with Section 6.E.(3) of Ordinance 08-32, Altman Tract - Parcel No. 4, these wetlands shall not be mined until such time as it has been demonstrated that wetlands on the

Altman Tract, Parcel No. 4 have been reclaimed to the same quality of wetlands proposed for impact.

Staff recommends that no mining activities occur in wetlands functionally integrated with the 25-Year floodplain of stream 100 in Sections 27, and 34 until such time as it has been demonstrated that wetlands on the Altman Tract, Parcel No. 4* have been reclaimed to the same quality of wetlands as agreed in the Texaco Tract Wetland Contract in Ordinance 08-32 and in accordance with the objective criteria and standards found in Ordinance 04-39 and in accordance with wetland protection requirements as detailed below. The stipulations in the Master Mining Plan reflect this Staff recommendation.

- **Consistency with Comprehensive Plan Policy 3.3.1.1 – Wetland Protection**

Comprehensive Plan Policy 3.3.1.1 states:

“Prohibit removal, alteration, or encroachment within wetlands except in cases where no other practical alternatives exist that will permit a reasonable use of the land or where there is an overriding public benefit. Such determination will require completion of impact avoidance and minimization analyses which clearly demonstrate the necessity of the proposed impact.”

Comprehensive Plan Policy 3.3.1.1 requires the applicant to demonstrate avoidance of wetlands before causing an impact. The applicant is avoiding 392 acres including: the 100-year Floodplain of the West Fork of Horse Creek, the 100-year Floodplain of Myakka River, the headwater wetland of Myakka River, and Stream 100 and associated riparian wetlands. In doing so, the Developer* has avoided nine (9) million metric tons of recoverable phosphate ore. Of the preserved onsite wetlands, 55% have UMAM scores of 0.7 or greater. Overall, the applicant is proposing to impact 649 acres (63%) of the 1041 acres of wetlands located within the project boundaries. Of the wetlands proposed for impact, 69 acres are high quality wetlands (i.e., >0.7 UMAM).

Mosaic feels that the application is consistent with Comp Plan Policy 3.3.1.1. in that the wetlands were analyzed for avoidance and minimization, the mining plan includes wetland reclamation in the form of compensatory mitigation and plan includes overriding public benefit. The applicant proposes to preserve and enhance offsite properties within the upper Myakka River watershed to offset potential temporary losses of habitat functions during mining. Mosaic feels that “no other practical alternatives exist that will permit a reasonable use of the land.”

Staff Response: Staff agrees with the applicant’s determination that the wetlands contained within the Wingate East Mine range from poor to high quality (UMAM scores 0.20-0.80). High quality wetlands make up 27% of onsite wetlands (284.6 acres). Mosaic has avoided 76% of the high quality wetlands. The reclamation plan include 790 acres of wetland reclamation in accordance with Policy 3.3.1.3.

Although Florida law treats mining as a temporary land use, Staff is of the opinion that mining of high quality wetlands and other sensitive native habitats, such as forested wetlands and scrub, results in the total destruction of all vegetation and long-lasting disturbance of soil. Mosaic has indicated that forested wetland reclamation areas are typically planted 5 to 6 years after mining has commenced and

that these areas are typically released after an additional 10 to 15 years. Release of reclamation areas does not indicate that the area has replaced all lost functions, rather that there is a reasonable expectation that the area will develop into a habitat with equivalent functions. Forested areas may not reach full maturity and replace lost functions for another 10-15 years. High quality, forested wetland functions can be lost for 20 to 30 years as a result of mining. Due to the duration in which functions and values are lost to the system, plant and animal species composition may not recover. Therefore, although mining is considered a “temporary use” under Florida law, it can result in significant long-term impacts to the environment.

The applicant is proposing two overriding public benefit projects to compensate for detriments suffered by the public resulting from the loss of wetland functions and values. The Myakka River Headwaters Restoration Project is the preservation and enhancement of 193 acres in the Myakka River watershed, including 7,920 linear feet of stream preservation and recreation. Proposed improvements to the property are expected to result in a net gain of 22.5 wetland UMAM credits and an upland equivalent of 19.9 UMAM credits, for a total of 42.5 credits. The project in combination with the onsite upper Myakka River No Mine Area doubles the width of the preserved corridor along the river valley.

As a second overriding public benefit project, the applicant has proposed to provide the sum of \$2.5 million dollars to the Manatee Community Foundation to be used to purchase or restore environmentally significant lands within the upper Myakka River Watershed in Manatee County such that it will result in a net environmental gain to the public. Manatee County will be granted a conservation easement over both projects with enforcement rights.

The County has historically accepted various forms of over-riding public benefit projects. Projects in the form of land donations, monetary funding of environmental restoration and environmental education, and design and construction of public infrastructure projects have been deemed appropriate given project-specific evaluations.

Conclusion: It is Staff’s opinion that the master mining plan is consistent with Comprehensive Plan Policy 3.3.1.1. The reclamation plan consists of post reclamation landscapes of similar size and topography and the wetland mitigation meets the Uniform Mitigation Assessment Method requirements of 62-345, F.A.C. Wetland reclamation and stream recreation will eliminate extensive ditching present in the pre-mining condition, increase flood storage capacity, and provide natural flow regimes to Stream 100 and the upper Myakka River corridor. This will increase the potential for biological assimilation of nutrients and detrital biomass and reduce the potential for turbidity entrainment and erosion. In addition, the Master Mining Plan has been conditioned such that no mining extraction activities shall occur below the 25-year floodplain elevation of Stream 100 unless mitigation measures have been provided and no mining activities shall occur in wetlands functionally integrated with the 25-year floodplain of Stream 100 in Sections 27 and 34 until such time as Section 6.E.(3) of Ordinance 08-32 has been met.

The overriding public benefit proposal, in the form of regionally significant preservation and enhancement in the upper Myakka River, provides Manatee County

with reasonable assurance that the project will provide an overall direct improvement to the upper Myakka River watershed in excess to the detriments resulting from the Wingate East master mining plan proposal.

2. Would mining activities provide for the orderly development of mineral resources in a manner compatible with the overall development of the county; considering the cumulative effects of other mining activities?

Staff Response: Yes. The conditions, limitations and restrictions set forth in the proposed Master Mining Plan will allow for the orderly development of mineral resources in a manner compatible with the overall development of the county, considering the cumulative effects of other mining activities.

3. Do the mining activities meet the setback limitations specified in Ordinance 04-39?

Staff Response: The applicant has requested a waiver of setback conditions pursuant to Section VI D. of Ord. 04-39 to allow for mining adjacent to Duette Road and mining adjacent to Duette Preserve. Ordinance 04-39 has several setback standards, specifically:

1. The placement of large slurry pumps and pipes within 500 feet of the property line.
2. The placement of the pumps and pipes within 1,000 feet of the offsite wetland(s).
3. Mining extraction activities within 1,000 feet of the offsite wetland(s).
4. Mining extraction activities within 200 feet of any public right-of-way.

The provisions under Section VI D. allow the BCC to waive these requirements if the applicant demonstrates that the setback condition will “impose an unreasonable restriction on the use of the property, and that such waiver would not adversely affect the health, safety and welfare of the public, and is consistent with the Comprehensive Plan.”

Staff has reviewed the proposed setback waivers and offers the following assessment. The slurry pumps and pipes greater than 10 horsepower will be at least 175 feet from the adjoining property (Duette Park), located on private land, behind the isolator/deflector berm and away from public access. Due to the nature of the site, there are no residences within 1,000 feet of the site. The isolator berm will protect the health, safety, and welfare of the general public. The pumps are required to meet the Manatee County Noise Ordinance.

Staff recommends approval of limited mining activities within 1,000 feet from Duette Park offsite wetland(s). The proposed clay settling area will be placed at least 500 feet from the property boundary which is within 1,000 feet of offsite wetland(s). The wetland hydrology is negatively influenced by the existing offsite utility corridor. To maintain the surficial aquifer in this area, no extraction of ore or removal of overburden shall occur within 1,000 feet of offsite wetland(s). With the maintenance of the substrate in the location of the offsite wetland(s), the possible impact to offsite wetland(s) and the health, safety, and welfare of the general public have been adequately addressed.

Staff has reviewed the stability analysis for Duette Road and agree that the failure envelope remains outside of the public right-of-way with a 140 foot setback, given that dewatering and mining will be completed on one side of the right-of-way before dewatering and mining may proceed on the other side of the right-of-way. With dewatering and mining proceeding in the

fashion described above, there will be no foreseeable impact to the health, safety, and welfare of the general public.

Staff recommends that the BCC grant the requested setback waivers described above as part of the Master Mining Plan approval, which is reflected in the recommended resolution.

4. Would Mining activities provide reasonable protection and conservation of natural and environmental resources?

Staff Response: Yes. Based on the stipulations and commitments in the proposed Master Mining Plan, the mining activities will provide reasonable protection and conservation of natural and environmental resources. The current plan consists of onsite preservation areas, including the 100-year floodplains of the West Fork of Horse Creek and the Myakka River. The clay settling area will be isolated from the Lake Manatee floodplain by a deflector/isolator berm to prevent any impact to offsite water resources. The ditch and berm system will minimize impacts to the Myakka River and Peace River watersheds.

5. Would mining activities reflected in the MMP provide for the use of best management practices and the development of technology for maximum control of adverse effects of mining activities?

Staff Response: Yes, Ordinance 04-39 requires the use of Best Management Practices in the Master Mining Plan. Such practices must be technologically and economically practicable and most beneficial in prevention or reducing adverse impacts from mining activities. Such practices include but are not limited: stormwater BMPs, recharge and stormwater ditches, dust, noise and light controls, water quality and quantity monitoring and special measures to control nuisance and exotic species in reclaimed lands (including cogon grass). Mining activities will be set back from Duette Road to allow for continued safe travel along the public road during mining.

6. Would mining activities preclude future normal uses of mined out lands?

Staff Response: Yes. Building in areas reclaimed as uplands may require radon-resistant construction techniques and additional foundation support. Areas reclaimed as clay settling area would be limited, for the most part, to agricultural uses.

7. Would mining activities be consistent with the use of best possible technology for mining activities conducted in the watershed(s) of the Lake Manatee and Peace River, if said proposed mining activity is to occur within the watershed(s)?

Staff Response: Mining activities will not take place in the Lake Manatee watershed. Mining is proposed in the Peace River watershed. Proposed mining activities in the Peace River watershed will use best possible technology and best operating practices as required in the Phosphate Mining Code, Ordinance 04-39.

8. Is clay settling area located on lands that have been previously mined, or which have approval for future mining?

Staff Response: Yes, clay settling area WE-1 is proposed to be located on areas proposed for future mining and lands approved for mining in Wingate Extension, R-12-01.

9. Are proposed transportation activities and improvements planned in a manner which minimizes adverse impact on important natural resources?

Staff Response: The proposed mining of Wingate East is contingent upon the continued use of Wingate Creek Mine haul routes and transportation plan. These activities will be addressed in an amendment to Wingate Creek Mine Master Mining Pla, R-13-001, to be presented to the Board of County Commissioners for approval at a later date.

10. Will mining activities be in compliance with all local, State and federal noise regulations?

Staff Response: Yes. Periodic noise monitoring is conducted to ensure Mosaic's mining activities continue to comply with all local, State and federal noise regulations.

11. Will lighting associated with mining activities be in compliance with Section 542.5 of the Land Development Code, as amended, or its successor provisions?

Staff Response: Yes, all lighting associated with mining activities shall be in compliance with Section 542.5 of the Land Development Code. Mosaic routinely monitors light spillage and shall continue to comply with all local, State and federal regulations.

ATTACHMENTS:

Appendix A: Consistency with Comprehensive Plan Summary
Resolution R-16-123, Master Mining Plan
Proof of Advertisement

Appendix A: Consistency with Comprehensive Plan Summary

Policy 2.1.1.2—Designate on the Future Land Use Map land within existing developed areas at densities and intensities which are compatible with the existing development.

The Wingate East Mine, the Wingate Creek Mine, the SE Tract and most of the surrounding land are designated Agriculture/Rural (AG/R) on the Manatee County Future Land Use Map (FLUM). The land further to the north is designated Conservation for Duette Park. Under the Manatee County Comprehensive Plan, the AG/R land use designation allows mining and mining related activities to be approved. The approval of the proposed mining is compatible with the Manatee County FLUM.

Policy 2.1.2.3—Permit the consideration of new residential and nonresidential development with characteristics compatible with existing development, in areas which are internal, or are contiguous expansions of existing development if compatible with future areas of development.

The requested mining of the Wingate East Mine is an extension of the Wingate Creek Mine that abuts the property to the west. The Wingate East Mine is located between the SE Tract and the Wingate Creek Mine, which are connected by the Wingate Creek Mine Infrastructure Corridor. The proposed mining is a logical extension of mining in this part of the County.

Policy 2.1.2.5—Permit the consideration of new residential and nonresidential development in areas which are currently undeveloped, which are suitable for new residential or nonresidential uses.

The requested mining is an extension eastward of ongoing mining activities at the adjacent Wingate Creek Mine. The processing of the phosphate ore will be conducted at the Wingate Creek Mine beneficiation plant. After the cessation of mining and mining related activities, the land will be returned to agricultural use.

Policy 2.1.2.7—Review all proposed development for compatibility and appropriate timing...

The timing is appropriate because the joint ownership/control of the Wingate Creek Mine, SE Tract, and the Wingate East has occurred after a merger of mining companies. The permitting of Wingate East Mine will allow the continued use of the Wingate Creek Mine beneficiation plant and the Wingate Creek Mine Infrastructure Corridor, as well as the clay settling areas on SE Tract.

Policy 2.2.1.8—AG/R: Establish the Agriculture/Rural future land use category...

Policy 2.2.1.8.2—Range of Potential Uses: Farms, ranches, agro-industrial uses, agricultural service establishments, agriculturally-compatible residential uses, farmworker housing, rural residential uses, small retail and office commercial uses, mining, mining-related uses, low intensity recreational facilities, rural recreational facilities, public or semi-public uses, and appropriate water-dependent uses.

Mining and mining-related uses are approved uses within the AG/R land use category. Post-reclamation land conditions, in accordance with the Manatee County Code and the Master Mining Plan (MMP), will support all of the potential uses allowed.

Policy 2.2.1.8.3—Range of Potential Density/Intensity: Maximum Gross Residential Density: 0.2 dwelling units per acre, Maximum Net Residential Density: 1 dwelling unit per acreMaximum Floor Area Ratio: 0.23, Maximum Square Footage for Neighborhood Retail Uses: small (30,000 square feet).

The proposed mining request does not involve residential, commercial, or other building development.

Policy 2.2.1.8.4—Other information:

a) Mining-related uses, agro-industrial uses, and agricultural service establishments are exempt from the requirement for 0.23 maximum floor area ratio, but may be limited in intensity by the application of other goals, objectives, or policies in this Comprehensive Plan or by other applicable development regulations.

b) All mixed, multiple use and rural recreational use projects require special approval, as defined herein, and as further defined in any land development regulations developed pursuant to Chapter 163.3202, F. S.

c) Where established in a manner consistent with applicable land development regulations, farmworker housing may exceed densities specified in Policy 2.2.1.8.3.

The proposed mining of the Wingate East Mine does not involve the construction of any buildings and does not require any special approvals pursuant to this policy.

Policy 2.2.2.2.2.—Purpose: To maintain and improve the natural and man-made environment and resources in a manner protective of the water supply functions of the Lake Manatee, Evers Reservoir, and Peace River watersheds, which contribute to these preferred potable water sources, so as to maintain water quality and quantity within both Lake Manatee, Evers Reservoir, Peace River and all inflowing watercourses.

Policy 2.2.2.2.3—Applicable Goals, Objectives, and Policies: Goals, objectives, and policies pertaining to the WO Overlay District are contained under Objective 2.3.4. of the Future Land Use Element, Objective 9.5.2 and Policy 9.4.1.4 of the Public Facilities Element, goal 3.2 of the Conservation Element, Objective 5.3.2 of the Traffic Circulation Element, of this Comprehensive Plan. Compliance with all goals, objectives, and policies listed in this subsection, and with other applicable goals, objectives, and policies, and development regulations is required for all activity within the Watershed Overlay District.

Policy 2.2.2.2.4—Effect of Mapping:

(a) Any project which is at least partially within the Watershed Overlay District (WO) shall be submitted for approval under the special approval process. The area designated under the WO District on the Future Land Use Map shall also be subject to all goals, objectives and policies for any future land use category overlaid by the WO District. The extent and coverage of the area designated is shown in greater detail on the official zoning atlas of Manatee County, but is, however, subject to adjustment pursuant to (c) below.

(b) See also policies listed under Policy 2.2.2.2.3 above.

(c) Manatee County will accept and review on a case-by-case basis, submittal of appropriate hydrological studies by any owner or authorized representative of property shown on the official zoning atlas as being within the Watershed Overlay where the owner or agent thereof is seeking to demonstrate that property is not located within the Lake Manatee Watershed, the Evers Reservoir, or the Peace River Watershed. Where the review concludes that the subject property, or part thereof, is located outside the Watershed Overlay, adjustments to the zoning atlas should be processed pursuant to an administrative

procedure established within any land development regulations developed pursuant to § 163.3202, F.S.

Policy 2.2.2.2.5—DEVELOPMENT RESTRICTION/CONDITIONS:

(a) Prohibit the location of any general or commercial aviation facility within the Watershed Overlay District, except where a finding of overriding public interest has been reached by the BOCC for location of such a facility within the districts.

(b) Prohibit the location of new confined feedlot operations for livestock within the Watershed Overlay District.

(c) Prohibit all new mineral resource extraction and associated processing activities, other than sand, shell, and gravel extraction, within the Watershed Overlay District unless such uses are subject to

special approval which must establish that such activities shall not cause a degradation of water quality and shall not cause adverse impact on water quantity within the watersheds.

(d) Prohibit newly proposed nonresidential/nonagricultural development in the Watershed Overlay District which requires an operating permit for industrial waste treatment, as referenced in Chapter 62-4, F.A.C., unless such developments are reviewed as special approvals and it can be established that such development shall not cause a degradation of the water quality of the watersheds of Lake Manatee, Evers Reservoir, or Peace River, as appropriate, and shall not cause any adverse impact on water quantity within these districts.

(e) Prohibit the location of new sanitary landfills and wastewater treatment plants (interim or permanent) within the Watershed Overlay District unless such uses are permitted pursuant to a finding by the BOCC of overriding public interest.

(f) Require that the preservation of indigenous vegetation within the Watershed Overlay District be accomplished through careful site planning and the use of native, naturalized or drought-hardy species for new or replacement plantings (see also policy 2.9.4.6).

(g) Require minimum percentages of upland area on projects within the Watershed Overlay District be maintained, during the course of development, as undisturbed or landscaped areas. These minimum percentages shall exceed those required outside the Overlay District (see also policy 3.3.2.1 and 2.9.4.6).

Approximately 367 acres of the project are located within the Peace River Watershed Protection Overlay District. Mosaic has requested Special Approval to conduct mining activities on 279 acres within the Peace River Watershed Protection Overlay District. This request includes mining 9.5 acres of isolated wetlands (Wetland IDs 24-5 and 25-4) within the Peace River watershed.

The applicant has provided competent and substantial evidence, as detailed above, that mining activities will not cause a degradation of water quality or adverse impacts on water quantity within the affected watershed when employing best possible technology (BPT) and best operating practices (BOPs), as identified in Appendix D of the Master Mining Plan.

To further prevent water quality impacts or loss of wildlife habitat, the applicant is preserving 50-foot upland buffer zone around No Mine Areas in the 100-year floodplain during mining and post reclamation. The applicant has committed to the following advanced reclamation techniques: accelerated sand tailings and contouring, topsoiling of upland habitats and use of wetland mucks for wetland habitats. The applicant is creating 16.6 acres of wetlands within the Peace River watershed, which is a 1:1.7 ratio.

Policy 2.3.1.3—Promote the transfer of density or intensity from environmentally significant uplands, such as habitat for endangered and threatened species to other areas of the development site. Such transfers shall be limited to the net density/intensity limitations of the Future Land Use Category.

The proposed mining activities do not involve the transfer of density/intensity credits.

Policy 2.3.2.1—Require that all development or land use activities utilize soil stabilization procedures and construction best management practices to minimize soil erosion and transport during the project development phase.

The entire area to be mined will be located within a containment berm system. The berm is a structural best management practice that has proven effective in the virtual elimination of offsite turbid runoff and soil erosion during the mining and reclamation stages of operation. As with other Mosaic mining properties, the berm will be maintained until the post-reclamation vegetation has stabilized. At that time, the berm will be regraded and revegetated as the final reclamation step.

Policy 2.3.2.2.—Prohibit the development of those portions of any project site which demonstrates the likelihood of exhibiting new or continuing sinkhole activity.

According to Southwest Florida Water Management District (SWFWMD), the Wingate East Mine is located in a region that has a low probability of sinkhole occurrence. No sinkholes have been reported onsite nor does evidence of past or present sinkhole formation currently appear on the site. Mosaic has reached this conclusion after researching publicly-available literature about the geology of Manatee County that documents that this region of Florida is not susceptible to sinkhole development.

Policy 2.3.2.3—Minimize the alteration of any natural slopes equal to or exceeding 26.5 degrees (i.e. run: rise = 2:1) during the project development process unless it can be demonstrated that construction on, or alteration of, any such slope can be accomplished without erosion of these steeply-sloped areas.

There are no slopes equal to or exceeding 26.5 degrees on the Wingate East Mine. The deposition of clay residues in WE-1 will not result in the clay settling area with post-reclamation slopes equal to or exceeding 26.5 degrees.

Policy 2.3.2.4—Minimize the alteration of hydric soils supporting wetlands, consistent with the policies under Objective 3.3.1.

The avoidance and minimization of wetland impacts is addressed in the response to Policy 3.3.1.1 below. In addition, the applicant transfers wetland mucks from mined wetlands to reclamation wetlands, where feasible, in accordance with the Phosphate Mining Code Reclamation Manual, Appendix E.

Policy 2.3.3.2—Require that all fill within the 100-year floodplain shall be compensated by creation of storage of an equal or greater volume, with such compensatory storage also located within the 100-year floodplain. Areas within the 100-year floodplain adjacent to a tidally-influenced water body shall not be subject to this level of service performance standard.

The applicant is not proposing to mine within the 100-year floodplain of the West Fork of Horse Creek and the upper Myakka River.

Policy 2.3.3.4—Prohibit habitable structures and major public and private investment within the 25-year floodplain except for projects which have special exception status or obtain a Special Approval. This policy shall not preclude the development of water-dependent uses, water-related and water-enhanced uses, stormwater management structures, non-habitable structures, and passive recreational uses where appropriate. Any such development shall:

- **Minimize impervious surface in the 25-year floodplain;**
- **Cluster structures and uses outside of the 25-year floodplain, whenever possible [see policy 2.3.1.2];**
- **Protect perennial lakes and streams by encouraging the dedication of conservation easements not subject to any land alteration within the 25-year floodplain.**

This policy applies only for the purposes of reviewing projects for which mapping of the 25-year floodplain has been accomplished, or where interpolation or use of an existing water surface profile for the watercourse(s) permits the identification of the 25-year flood elevation.

No habitable structures are proposed.

Policy 2.3.3.5—Limit density and intensity in a manner which will protect all groundwater resources from unacceptable contamination by septic tanks.

There are no septic tanks on, or associated with, the proposed mining of the Wingate East Mine.

Objective 2.3.4—Land Use Consistent with Watershed Protection: Limit land use in the Lake Manatee, Evers Reservoir, and Peace River WO Districts to maintain and improve water quality and the natural environment and resources within those watersheds which contribute to filtration.

Please see response to Policy 2.2.2.2.5.

Policy 2.5.1.1—Designate those areas in Manatee County which are suited for longterm agriculture as Agriculture/Rural on the Future Land Use Map so as to limit the degree of suburbanization of such lands and reduce uses which may displace agriculture.

Policy 2.5.1.2—Establish agriculture as the preferred use in the AG/R category. Such preferred use status shall favorably impact existing farms, expanding farms, farms that change commodities, agricultural support uses and shall be supportive of state law establishing the right-to-farm.

Policy 2.5.2.4—Permit continued or newly established agricultural uses other than special agricultural uses, on all or part of a project which has been the subject of a special approval, until approved development is started on the project site.

The Future Land Use category of the Wingate Creek Mine, the SE Tract, the Wingate Creek Mine Infrastructure Corridor, the Wingate East Mine and the surrounding area is AG/R. Agricultural uses of the Wingate East Mine are currently improved pasture. This use will continue until mining occurs. Following the temporary use of the land for mining, Mosaic will reclaim and return the lands to agricultural use, consistent with the Future Land Use Element.

Policy 2.6.1.1—Require all adjacent development that differs in use, intensity, height, and/or density to utilize land use techniques to mitigate potential incompatibilities. Such techniques shall include but not be limited to ...limits on density and/or intensity [see policy 2.6.1.3].

The proposed mining of the Wingate East Mine is compatible with the adjacent mining activities. There will be no permanent structures. The Wingate East Mine is adjacent to Wingate Creek Mine and in close proximity to Southeast Tract which are both currently zoned EX. The surrounding zoning of the mine are generally Agricultural & farms, noting that Duette Preserve lies to the northwest and the Winding Creek Subdivision abuts the project along the southwest property line.

Policy 2.6.4.1—Protect an area within 200 feet of any public supply well as a zone of exclusion and prohibit new commercial or industrial uses, septic tanks, leaching fields, and all uses listed in Policy 2.6.4.2 from locating within the zone of exclusion.

There are no public supply wells located within 200 feet of the perimeter of the proposed Wingate East Mine.

Policy 2.6.4.2—Protect an area within 1,000 feet of any public supply well as a zone of secondary exclusion and prohibit all of the following uses from locating within the secondary zone of exclusion: ...mines...

There are no public supply wells located within 1,000 feet of the perimeter of the Wingate East Mine.

Policy 2.9.4.6—Reduce noise and pollution, promote an aesthetically pleasing environment and promote water conservation through the use of native landscaping materials. Landscaping requirements shall allow a choice of:

1. planting of native vegetation, guaranteeing that at least 50% of all plantings incorporated in an approved landscape plan for any project after development consists of native vegetation suitable to that site; or

2. guaranteeing that at least 60% of all post-development vegetation is indigenous to Manatee County. Mosaic will reclaim the Wingate East Mine to uplands and wetland natural systems using native vegetation indigenous to Manatee County and as required by Manatee County Phosphate Mining Code Reclamation Manual, Appendix E. No irrigation systems will be required or are planned.

Policy 2.11.1.4—Permit the consideration of all new mineral resource extraction activities that are regulated by the Manatee County Mining Ordinance (Ordinance 81-22) only within the Agriculture/Rural, and Industrial-Heavy designations on the Future Land Use Map.

The Wingate East Mine is located in the AG/R land use designation.

Policy 3.1.1.6—Require the control of erosion, fugitive dust, and air emissions related to the development construction.

Best management practices, as required by the FDEP Title V permit and the Manatee County Master Mining Plan (MMP), will be implemented during construction activities to minimize erosion, fugitive dust, and other air emissions, thereby ensuring consistency with this policy.

Policy 3.2.2.3—Prohibit new development for which ground water well pumpage would induce further salt water intrusion or which will cause other adverse hydrological effects.

Mosaic is not requesting to increase groundwater withdrawals above the levels currently approved under the SWFWMD Water Use Permit.

Policy 3.2.2.4—Encourage construction of water recharge wells, and water irrigation and circulation systems for mitigation of activities which cause a lowering of ground water levels and to offset ground water withdrawal impacts, except where such recharge causes the interchange of water between any two confined aquifers resulting in adverse impacts on ground water quality.

Mosaic will install a perimeter ditch and berm system where active dragline mining is adjacent to wetlands that will remain undisturbed to preclude lowering the water table. Recharge wells will remain an option if the recharge ditch does not perform satisfactorily. The water table adjacent to dredge mining areas will be maintained by the dredge pool elevation. Mining of the Wingate East Mine will not cause the interchange of water between any two confined aquifers.

Policy 3.2.3.1—Continue to encourage residents and businesses to maintain or improve water conserving habits.

Mosaic has been able to reduce Floridan aquifer withdrawals by over 60 percent since 1990 by developing new technology to recover phosphate rock using recycled water. Use of recycled water also reduces the need for surface discharges.

Policy 3.2.3.3.—Require the use of native xeric plants in postdevelopment landscaping whenever feasible.

The post reclamation planting will comply with the county’s reclamation requirements. Native species will be used as appropriate. No irrigation systems will be installed or required.

Policy 3.3.1.1—Prohibit removal, alteration, or encroachment within wetlands except in cases where no other practical alternatives exist that will permit a reasonable use of the land or where there is an overriding public benefit. Such determination will require completion of impact avoidance and minimization analyses which clearly demonstrate the necessity of the proposed impact.

It is staff’s opinion that the proposal is consistent with this Comprehensive Plan Policy based on a combination of the factors below:

Viability

- Impacts to wetlands by mining related activities are different than other development in that they are temporary instead of permanent. Typically, with mining activities wetland areas are reclaimed

to an equal or greater quality and are generally located in a similar location as the pre-mining wetlands. The 1,041 acres of wetlands on this site range from low to high quality (UMAM score between 0.4 and 0.8), with the majority being of moderate quality (UMAM score between 0.5 and 0.7). Approximately 12% of the wetlands are of high quality (UMAM score at 0.7 and above).

No Practical Alternative/Reasonable Use

- Although more traditional types of development, such as residential subdivisions, could avoid the onsite wetlands while still achieving reasonable development, the scale of machinery and operational constraints of phosphate mining make avoidance of all wetland impacts much more burdensome. For example, such avoidance in a residential subdivision would minimally require a 30' buffer between the wetland and development activities. Phosphate mining not only requires the 30' wetland buffer but will also require additional setback for BMPs, ditch and berm, and setback from mine cut for bank stability. This operational constraint averages 300 feet by dredge equipment and 200 feet by dragline equipment. Avoidance of all wetlands in the project area would result in 1,535 acres of otherwise mineable uplands (57% of total uplands) to remain unmined due to operational constraints.
- Also unlike residential development, density cannot be transferred from wetlands to uplands because mining around wetlands does not increase the mineral reserves present beneath the uplands.

Overriding Public Benefit

- In addition to the wetland mitigation described in Policy 3.3.1.3 below, the applicant is proposing two offsite projects with regional significance to offset the detriments to the public resulting from the loss wetlands functions and values. The Myakka River Headwaters Restoration Project is the preservation and enhancement of 193 acres in the Myakka River watershed, including 7,920 linear feet of stream preservation and recreation. The second project will be of similar scope and scale as the Myakka River Headwaters Restoration Project. The applicant is proposing a \$2.5 million dollar donation to the Manatee Community Foundation to acquire an ecologically significant parcel in the upper Myakka River watershed in Manatee County or to enhance an existing project. Manatee County will be granted a conservation easement over both projects with enforcement rights.

Policy 3.3.1.2—Require that the extent of wetland areas on any proposed development or redevelopment site be identified on a signed-and-sealed wetlands delineation at time of preliminary site plan, preliminary plat, or other preliminary development plan or similar approval. Manatee County may revoke any development orders where the difference between an estimate of wetland areas shown on a signed-and-sealed survey and actual wetlands onsite is determined to be significant enough to warrant substantial project redesign.

The wetland boundaries have been field-verified by FDEP staff.

Objective 3.3.1—Wetlands Protection: preserve and protect existing and viable wetlands to

Policy 3.3.1.3—When development related impacts are unavoidable (see policy 3.3.1.1), require that all development-related impacts to wetlands be mitigated.

This project has obtained an Environmental Resource Permit from the FDEP. The proposed wetland impacts have been evaluated utilizing the Uniform Mitigation Assessment Method (UMAM) to determine the requirements for wetland mitigation in accordance with Comprehensive Plan Policy 3.3.1.3. Mitigation includes the onsite establishment of 790 acres of wetlands, including 463 acres of herbaceous and 327 acres

of forested wetlands, proposed to be sequentially completed across Wingate East as mining operations are completed. In addition, 12,142 linear feet of natural stream channels are proposed to be created on Wingate East as part of the reclamation plan.

Policy 3.3.1.5—Protect all wetlands from land development activities by requiring the establishment of natural area buffers adjacent to all post-development wetlands, except upland cut ditches in non-hydric soils. Land alteration or removal of vegetation shall be prohibited in any buffers established according to this policy except to allow the removal of nuisance plant species, small areas of impervious surface for storm water outfalls, and to allow public access consistent with natural resource protection. Such buffers shall be established according to the following schedule except as provided in policy 3.3.1.6:

- 1. Buffers a minimum of fifty (50) feet in width shall be established adjacent to all in flowing watercourses located in the WO Overlay and all Outstanding Florida Waters and Aquatic Preserves;**
- 2. Buffers a minimum of thirty (30) feet in width shall be established adjacent to all isolated wetlands and other wetlands not listed in (1) above; and**
- 3. Wetland buffers may be increased for large areas of significant wetlands, for watershed protection, and to implement the goals, objectives, and policies of this Comprehensive Plan. (See 2.9.4.4, 4.1.2, and 4.1.4)**

Mosaic is proposing to maintain 30-foot buffer zones of native habitat around No Mine Areas in the Myakka River watershed during mining and to maintain 50-foot buffer zones of native habitat around No Mine Areas in the Peace River watershed. In post-reclamation, wetlands within the Myakka River watershed will have 30-foot upland buffers and wetlands within the Peace River will have 50-foot upland buffers. Post-reclamation buffers may include buffer zones established during mining.

Policy 3.3.1.7—Cooperate with the Florida Department of Environmental Protection (FDEP), Southwest Florida Water Management District (SWFWMD), and the U.S. Army Corps of Engineers (USACOE) to monitor compliance with dredge and fill permits.

A FDEP permit for wetland impacts, the ERP, has been approved. A U.S. Army Corps of Engineers (USACOE) dredge and fill permit application No. 2009-03221(IP-ACR) has been submitted and is under review. The Wingate East Mine is part of the Central Florida Phosphate District Areawide Environmental Impact Statement (AEIS). The USACOE is required to release a Record of Decision/Statement of Fact (RODSOF) for the Wingate East application which is expected to include the mitigation framework that outlines the compensatory mitigation required for any unavoidable impacts associated with wetlands, surface water, ecological resources, etc.

Objective 3.3.2—Wildlife and Upland Habitat Protection: Protect and preserve native wildlife, endangered, threatened and species of special concern, and native upland habitat through appropriate acquisition, restoration, and development controls to provide:

- **Areas for passive recreation and enhanced quality of life;**
- **Large pervious areas for improved water quality and ground water recharge;**
- **Species diversity; and**
- **Natural area greenways.**

Policy 3.3.2.1—Protect flora and faunal species which are threatened, endangered, or are species of special concern from incompatible development by requiring that all proposed development sites be examined for location of Listed Species ...

A site-specific survey for Listed Species was conducted. Listed wildlife and plant species observed on or near the Wingate East Mine include: (1) Gopher frog, (2) Sherman’s fox squirrel, (3) Southeastern American kestrel, (4) Gopher tortoise, (5) Florida mouse, (6) Burrowing owl, (7) Florida sandhill crane, (8) Eastern indigo snake, (9) Bald eagle, (10) Crested caracara, (11) Wood stork, (12) Little blue heron, (13) Tricolor heron, (14) Snowy egret, (15) White ibis, (16) Catesby’s lily, and (17) Giant orchid.

Implementation of the Wildlife Habitat Management Plan will provide short-term management of wildlife species while mining and reclamation occur. Implementation of the reclamation plan will create suitable habitat to allow repopulation of the reclaimed site. Mosaic has an Incidental Take Permit (ITP) from USFWS for the Florida scrub jays and relocated these birds to the Wellfield Tract in December 2010. A modification to ITP (TE236128-0) was processed by the U.S. Fish and Wildlife Service (USFWS) to address all federally listed species on Wingate East (including the wood stork, Eastern indigo snake, crested caracara, and bald eagle). If any nesting activities of a listed species occur, Mosaic will coordinate with USFWS and Florida Fish and Wildlife Conservation Commission (FWC) to manage the observed species during mining and reclamation. Current management techniques include, but are not limited to: pre-clearing wildlife surveys, directional clearing toward preservation areas, clearing during the non-nesting season, species relocation/restocking, and sequencing habitat restoration/reclamation as mining progresses across the project site. Preservation areas include both wetland and upland habitats.

Policy 3.3.2.2—Require the preservation of native upland habitat during land development activities through one or all of the following strategies:

- 1. Maintenance of areas of non-exotic vegetation, or viable portions thereof, on any project site, especially when such area or viable portions of areas, are part of larger upland habitats which may extend beyond the boundaries of the development site;**
- 2. Encourage increased preservation of native upland habitat by providing incentives, including but not limited to:**
 - a) Transfer of density/intensity out of preserved native upland habitat**
 - b) Reduced lot sizes and setbacks**
 - c) consideration of increased building height when native upland preservation provides additional buffering and screening**
- 3. Removal of all nuisance exotic plant species from upland development sites during construction unless Special Approval is granted.**
- 4. Designation of upland preservation areas at time of general development plan, preliminary site plan, preliminary plat, or other preliminary development plan or similar approval.**
- 5. Manatee County shall consider habitat size, adjacency to other natural areas, and habitat value when reviewing site development plans for uplands preservation.**

Policy 3.3.2.4—Protect and maintain Species of Special Concern through strategies which consider the numbers and vitality of habitat of any such species.

See the response to Policy 3.3.2.1.

Policy 3.3.2.5—Actively participate in intergovernmental activities to appropriately conserve and manage native vegetation and viable wildlife habitat.

Policy 3.3.2.8—Identify and protect major environmentally sensitive areas through designation as Conservation on the Future Land Use Map or other appropriate protection strategies.

Policy 3.3.3.1—Participate in the development and preservation of natural area greenways which should include wildlife corridors, recreation areas, environmentally sensitive lands, and other cultural and historic resources which may serve the passive recreational needs for residents and visitors.

Mosaic proactively works with FDEP, FFWCC, and other agencies to provide assistance in the development of the Integrated Habitat Network (IHN) wildlife corridors. The West Fork Horse Creek and the upper Myakka

River riparian corridors contain aquatic resources that support regional aquatic ecosystem and meet the definition of core wildlife corridors in FDEP’s IHN. Those riparian corridors will be preserved.

Policy 3.4.1.3—Continue the current hazardous material management process which is applicable to all hazardous substance facilities to address the proper storage, disposal, and recycling of hazardous wastes and substances, and to provide direction to routing of hazardous materials on Manatee County roadways. Registration of all small and large quantity generators of hazardous substances with the Manatee County Department of Public Safety and the Environmental Management Department is required.

The mining of the Wingate East Mine will not generate any hazardous wastes and will not involve significant quantities of hazardous substances.

Objective 3.4.2—Mineral Resource Extraction: Promote efficient, environmentally sound, utilization and extraction of mineral resources to conserve natural resources and to ensure that the natural environmental is protected from adverse impacts.

Policy 3.4.2.1—Prohibit adverse environmental or land use impacts caused by new mineral resource extraction operations.

The MMP application demonstrates that Mosaic has developed mining and reclamation plans for Wingate East Mine that properly balances between efficient recovery of the phosphate resource and protection of the natural environment.

Policy 3.4.2.2.—Require that all applications for new or expanded mineral resource extraction activities include a reclamation plan for the reestablishment of form and function of the appropriate land cover. Also, require the implementation of all approved reclamation plans.

The MMP demonstrates that Mosaic will reclaim Wingate East Mine to meet the requirements of Manatee County Ordinance 04-39 and Chapter 62-16, of the Florida Administrative Code (F.A.C.), resulting in diverse post-reclamation vegetative cover of wetland and upland systems. Mosaic has demonstrated at other mining operations its commitment to implement all approved reclamation plans and will do so at Wingate East Mine as well.

Policy 3.4.2.3—Encourage efficient mineral resource extraction through water conserving extraction methods, use of reclaimed water, when available, and other cost effective and resource conserving techniques.

Mosaic has aggressively adopted proactive steps to more efficiently extract phosphate rock through water recirculation and conservation. As stated in Mosaic’s IWUP, “continued reductions [in water use] have been made possible by the increased use of recycled water in mining operations, through energy and freshwater conservation in the chemical processing facilities, through the closure of less efficient facilities, and by the closure of older mining facilities where mineral reserves have been exhausted. These reductions are consistent with the SWFWMD SWUCA Recovery Plan which aims to manage groundwater withdrawals to achieve identified MFL’s within the SWUCA. The phosphate industry’s reduction in permitted quantities and actual groundwater use represents the single largest industry-specific reduction within the SWUCA.” The proposed mining of the Wingate East will continue this effort through the recirculation of mine process water.

Policy 5.0.1.1—Review and approval of development orders for land development to ensure that such approvals shall not degrade transportation levels of service, and that appropriate actions are taken to ensure that transportation levels of service are maintained.

No changes to the transportation of materials are proposed in this application. Please note, the approval of Wingate East will necessitate a future amendment to the Wingate Creek Mine transportation plan contained in R-13-001 to extend the life of the haul route (See page 2 above).

Objective 5.3.2—Natural Resource Considerations: Ensure that all transportation improvements are conducted in a manner which minimizes adverse impact on important natural resources.

Policy 5.3.2.2—Require that all roadway improvements for which design will discharge stormwater directly to the Lake Evers or Lake Manatee Reservoirs, or to the Peace River, or discharge into any inflowing watercourse, in the Watershed Overlay District include an additional level of stormwater treatment equal to 50% of the treatment criteria specified in Ch. 62-25.035(1)(b), F.A.C. (i.e., treatment pursuant to Outstanding Florida Water Criteria is required).

No changes to the transportation of materials are proposed in this application. Please refer to the discussion under Policies 5.0.1.1 and 5.0.1.3 above.

Policy 7.1.3.1—Require that all land development applications requiring site plan, or subdivision plat review address the occurrence or potential occurrence of historical and archaeological resources within their property boundaries.

Mosaic has conducted a thorough review of historical and archaeological resources on the Wingate East Mine. The Cultural Resource Assessment has been approved by the Florida Department of State, Division of Historical Resources (DHR), with no further site review requested.

Policy 7.1.3.2—Prohibit the destruction and/or disturbance of any significant historical or archaeological resource site except to allow data recovery or archaeological excavation activities approved by the Florida Department of State, Division of Historical Resources.

Mosaic has transmitted the results of the archeological and historic resources survey to DHR for review. DHR has determined that the Wingate East site is not significant.

Policy 7.1.3.3—Require the temporary suspension of land development or alteration activities when sites of potential archaeological significance are uncovered. Where such resources are deemed significant, require the implementation of appropriate action to preserve the value of these resources.

Should Mosaic discover additional potential archaeological sites when conducting mining operations on Wingate East, the land disturbing activities will cease until trained cultural resource experts can examine the area and determine, in consultation with DHR, whether the potential site is significant. Should significant resources be uncovered, Mosaic will work with DHR to ensure that the appropriate action is taken to preserve the value of such resources.

Objective 9.2.4—Onsite Wastewater Treatment Systems: Provide for the limited use of septic tanks and interim wastewater treatment plants only in areas where sanitary sewer extension is not reasonably feasible. (See also policy 9.2.1.2.)

There will be no onsite septic tanks or interim wastewater treatment plants.

Policy 9.4.1.1—Require the rate of storm water discharge from new development to be equal to, or less than the rate of discharge that existed prior to development, based on a 25-year frequency – 24-hour duration storm event. The post development point(s) of discharge shall be the same as the predevelopment point(s) of discharge for a project site. The discharge it to include any discharge to an existing or proposed watercourse, swale, ditch, or storm sewer system that connects to a receiving watercourse in the WO District. All storm water discharge shall be consistent with the requirements of Chapter 62-3, 62-4, and 62-25 F.S. for water quality. These requirements may be increased in areas of known flooding.

The rate of storm water discharge will not exceed the existing 25-year frequency, 24-hour duration storm event. Pre – post analysis, included in the MMP application, shows proper balance of peak and mass flow

during 25-year storm events. All discharge from the mining area will be through NPDES outfalls, and will meet water quality standards.

Policy 9.4.1.4.—Require that all projects discharging into the WO District on the Future Land Use Map meet or exceed the design standards of Chapters 62-3, 62-4, and 62-25 and local design standards for discharge into Outstanding Florida Waters. The Board of County Commissioners may waive this policy if the proposed stormwater management system provides equivalent levels of stormwater treatment, ensuring that groundwater hydrology characteristics are not altered, impacted, or changed from the existing pre-development condition.

Please refer to the discussion under Policy 9.4.1.5 above.

Policy 9.4.4.—Protect natural drainage features such as streams, lakes, wetlands, and estuaries and preserve the function of these natural features by allowing the utilization of isolated wetland prohibiting the alteration of these natural watercourses and floodways except in cases of overriding public interest as determined by the Board of County Commissioners.

Please refer to the discussion under Policy 3.2.2.1 above.

Objective 9.5.2—Potable Water Reservoir: Preserve the Manatee River Reservoir as a long-term source of potable water.

Policy 9.5.2.1—Continue to develop economically feasible water conservation techniques to preserve the Lake Manatee Reservoir and to minimize competition between agricultural, commercial, and residential users of surface water resources.

Mosaic is not requesting, nor does it require, any additional groundwater withdrawals from those levels currently approved.