

Alissa Powers

From: William Clague
Sent: Wednesday, April 04, 2018 9:36 AM
To: Alissa Powers; Robert Brown
Subject: RE: Southeast Tract MMP RLS 2018-0062

Follow Up Flag: Follow up
Flag Status: Completed

Alissa:

I have no additional legal comments.

Bill.

From: Alissa Powers
Sent: Wednesday, April 04, 2018 9:19 AM
To: Robert Brown <rob.brown@mymanatee.org>; William Clague <william.clague@mymanatee.org>
Subject: Southeast Tract MMP RLS 2018-0062

Rob and Bill,

Here are the revised Staff Report and MMP based on RLS comments and meeting with the applicant on March 23, 2018. They are ready to be sent to Mosaic unless you have any additional comments.

Alissa Powers, PWS

Parks and Natural Resources Department
Environmental Program Manager
(941) 742-5980, Ext. 1892
1112 Manatee Avenue West, Suite 203
Bradenton, Florida 34205
www.MyManatee.org/naturalresources

Alissa Powers

From: William Clague
Sent: Friday, March 16, 2018 5:05 PM
To: Robert Brown
Cc: Mitchell Palmer; Sarah Schenk; Anne Morris; Charlie Hunsicker; Ed Hunzeker; Dan Schlandt; John Barnott; Alissa Powers; Juliet Shepard
Subject: Southeast Tract Master Mining Plan Amendment; RLS-2018-0062; Wingate Creek Master Mining Plan Amendment; RLS-2018-0110
Attachments: R-18-013 MMP WEC Comments dtd 3.16.18.pdf; R-18-012 MMP WEC Comments 3.16.18.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Rob:

Pursuant to the above Requests for Legal Services, you have asked this Office to review the staff report and resolution for the above referenced Master Mining Plan Amendments (MMP Amendments). In response, I provide the following comments:

1. Attached are marked comments to the staff report and resolution for each MMP Amendment. Because each MMP Amendment relates to the approval of the Wingate East MMP, I have combined my responses to the two RLSs.
2. While the staff report, resolution and supporting documents are very thorough and well drafted, I am concerned that commissioners may have difficulty following the changes requested in these MMP Amendments. Some additional narrative in the staff report, coupled with commissioner briefings, may be needed to address this.
3. I have flagged the title page of each Exhibit A, in order to advise you to consider paring down the scope of the "consistency" analysis in each exhibit. In many places, they correctly analyze the changes proposed in the MMP Amendments. In some places, however, they appear to analyze the consistency of the overall mines. This is a legal concern, since both mines are vested under existing MMPs, such that the Board will lack jurisdiction to revisit the mining activities that have already been approved for these projects.
4. Along the same lines, I have flagged the title page of each resolution for you to consider the need to provide redlines to the Board. I understand the staff preference for amending and restating the MMPs in their entirety, but it does make it difficult to follow the changes. With that in mind, I advise that you consider providing the Board with redlined versions showing the changes to the existing MMPs to aide in understanding the changes.
5. In the MMP Amendment for the Wingate Creek Mine I have also flagged the stipulation regarding the Duette Bridge Replacement, as I understand this is an issue of ongoing concert to staff and the applicant, such that it may require additional discussion and revision.
6. I also note that these proposed MMP Amendments are subject to proposed local development agreements that are under review pursuant to RLS-2018-0014, to which I will presently respond by separate email.

There were no specific legal issues raised in the RLSs, such that I have limited my review to matters that could give rise to a legal claim against the County. Subject to the incorporation of the above comments into the staff reports and

resolutions, I have no objection from a legal standpoint to the MMP Amendments being scheduled for consideration by the Planning Commission and Board.

This concludes my response to the RLSs. Please let me know if you have any additional questions or concerns.

Bill Clague
Assistant County Attorney
Manatee County, Florida
ph. 941-745-3750
fx. 941-749-3089
william.clague@mymanatee.org

WEC Comments
03/16/18

RESOLUTION R-18-013 – MASTER MINING PLAN

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA AMENDING THE EXISTING MASTER MINING PLAN FOR THE SOUTHEAST TRACT MINE (±2,508 ACRES); TO ESTABLISH NEW OR MODIFIED CONDITIONS OF APPROVAL FOR MINING ACTIVITIES WITHIN THE SOUTHEAST TRACT; REMOVING ±103 ACRES OF LAND IN SECTION 22, 23, 24, 26 & 27, OR PARTS THEREOF, IN TOWNSHIP 34S, RANGE 22E; REVISING THE WASTE DISPOSAL PLAN TO INCLUDE WASTE CLAYS FROM THE WINGATE EAST MINE; UPDATING THE MINE AND RECLAMATION PLAN TO TAKE INTO ACCOUNT THE ABOVE CHANGES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR AN EXPIRATION DATE; APPROVING A BUILDOUT DATE FOR MINING ACTIVITIES UNTIL SEPTEMBER 30, 2036 AND RECLAMATION UNTIL SEPTEMBER 30, 2042.

P.C.:

B.O.C.C.:

RECOMMENDED MOTION

Based upon the staff report and evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with Manatee County Ordinance 04-39 with the Manatee County Comprehensive Plan (Ordinance 89-01, as amended), as conditioned herein, I move to ADOPT Resolution R-18-013 as recommended by staff.

Land

CASE SUMMARY

APPLICANT: Mosaic Fertilizer, LLC

REQUEST: Approval of a Resolution amending the Master Mining Plan for the Southeast Tract Mine

**STAFF
RECOMMENDS:** APPROVAL

DISCUSSION:

The amendment to the Southeast Tract Mine Master Mining Plan (MMP) to adjust waste clay storage plan, legal description, hydrology study, and life of mines and life of reclamation to be compatible with the recently approved Wingate East MMP, Resolution R-17-017. This amendment also incorporates amended and restated conditions from the Development of Regional Impact Development Order (DRI DO). The DO is to be rescinded in conjunction with the approval of LDA 17-03. This amendment is consistent with the Phosphate Mining Code, Ordinance 04-39 (codified as Chapter 2-20 of the Code of Ordinances), and the Comprehensive Plan.

BACKGROUND:

The requested MMP concerns the continuation of mining activities at the Southeast Tract Mine, which have been ongoing for approximately fourteen years. The Southeast Tract Mine (aka Four Corners Mine Southeast Tract), consisting of ± 2,508 acres, is east of Duette Road, south of State Route 62, and north of McLeod Road in Township 33 South, Range 22 East, Section 36 and Township 34 South, Range 22 East, Sections 1, 2, 11, 12, 13, and 14, approximately 2 miles north of SR 64; in Duette, Florida. The site is located adjacent to Wingate East and Fort Green Mine and nearby to the Wingate Creek Mine. The Southeast Tract Mine was submitted as part of the Four Corners Mine MMP Amendment on October 22, 1999. The approval to mine the Four Corners Mine Southeast Tract Addition was given on December, 19, 2000 and became effective on June 17, 2003. Resolution R-00-271 combined both the MMP and the Operating Permit in one approval under Ordinance 81-22 (Phosphate Mining Ordinance). Ore beneficiation and waste clay storage for Southeast Tract was permitted to occur at Four Corners Mine or Ft. Green Mine.

In late 2004, Cargill and IMC merged into Mosaic Fertilizer, LLC at which time all tracts (Wingate Creek Mine, Wingate East property, and the Southeast Tract) came under the same ownership, giving the opportunity to connect these operations. Mosaic Fertilizer, LLC has fee simple ownership of all of properties.

Appendix A
Consistency with Comprehensive Plan Summary

See emailed
Comments re
Scope of analysis

The Master Mining Plan (MMP) is consistent with the Comprehensive Plan requirements, as described below:

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.

Response: The requested MMP amendment does not include a request for any changes to the Future Land Use Map or densities and intensities. The approval of the proposed amendment is compatible with the Manatee County FLUM.

Policy 2.1.2.2-- Limit urban sprawl by prohibiting all future development to the area east of the established FDAB except as follows:

- a.) small commercial development providing for the needs of the agricultural community, and
- b.) Agro-Industrial and industrial development where associated with approved mining operations.

Response: The requested MMP amendment does not include the request for the construction of any structures and thus has no impact with respect to urban sprawl.

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.

Response: The requested MMP amendment does not propose new or expanded development.

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.

Response: The requested MMP amendment is an extension of ongoing activities within the active Southeast (SE) Tract. No new development is proposed.

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

Response: The timing is appropriate because the joint ownership/control of the Wingate Creek Mine, SE Tract, and Wingate East has only occurred after a merger allowing for increased efficiencies and economies. This results from the interchange of ore and products of mining between the SE Tract, the Wingate Creek Mine infrastructure and Wingate East. In addition,

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.

Response: Mosaic is not requesting to increase groundwater withdrawals above the levels currently approved under the current 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.

Response: There are no changes proposed at the SE Tract that would result in a lowering of groundwater levels.

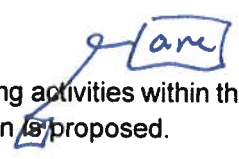
Policy 3.2.3.1—Continue to encourage residents and businesses to maintain or improve water conserving habits.

Response: 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 3.2.3.2— Require all water users to use the lowest quality of available water adequately and safely to meet their water use needs by storm water reuse, alternative irrigation sources, reclaimed and gray water irrigation systems where feasibility. (See policy 9.6.1.2, and policies under objective 9.1.5.)

Response: Mosaic has implemented this policy by using internally recycled water as the principal source of process makeup supply. Process improvements have allowed Mosaic to decrease deep well make-up water use. Post-reclamation, no irrigation is proposed on the SE Tract.

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

Response: The requested MMP amendment is an extension of ongoing activities within the active SE Tract. No changes to the approved post reclamation planting plan  are proposed.

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.

**Master Mining Plan Resolution
RESOLUTION R-18-013**

See amended
comments re
redlining

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA AMENDING THE EXISTING MASTER MINING PLAN FOR THE SOUTHEAST TRACT (±2,508 ACRES); TO ESTABLISH NEW OR MODIFIED CONDITIONS OF APPROVAL FOR MINING ACTIVITIES WITHIN THE SOUTHEAST TRACT; REMOVE ±103 ACRES OF LAND IN SECTION 22, 23, 24, 26 & 27, OR PARTS THEREOF, IN TOWNSHIP 34S, RANGE 22E; REVISE THE WASTE DISPOSAL PLAN TO INCLUDE WASTE CLAYS FROM THE WINGATE EAST MINE; UPDATE THE MINE AND RECLAMATION PLAN TO TAKE INTO ACCOUNT THE ABOVE CHANGES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR AN EXPIRATION DATE; APPROVING A BUILDOUT DATE FOR MINING ACTIVITIES UNTIL SEPTEMBER 30, 2036 AND RECLAMATION UNTIL SEPTEMBER 30, 2042.

WHEREAS, the Board of County Commissioners of Manatee County, Florida (hereinafter "Board") has approved a Development Order for a Development of Regional Impact (DRI-235), a Master Mining Plan, and an Operating Permit for a phosphate mine known as the Southeast Tract, which is located in Manatee County; and

WHEREAS, Mosaic Fertilizer, LLC currently owns and operates Southeast Tract Mine* parcels in fee simple ownership as described in Exhibit A; and

WHEREAS, Resolution 00-271 approved the Master Mining Plan and Operating Permit for the Southeast Tract; and

WHEREAS, on April 28, 2017 Mosaic Fertilizer, LLC (hereinafter Mosaic) filed with Manatee County an amendment to the Master Mining Plan for the Southeast (SE) Tract to remove the Wingate Corridor parcel from the Southeast Tract Mine, update the Waste Disposal Plan to use clay settling areas FM-1 and FM-2 for storage of waste clays from Wingate East Mine, to extend the life of mine and life of reclamation and update the mining sequence plan and reclamation sequence plan accordingly; and

WHEREAS, on December 6, 2017 Mosaic filed with Manatee County an application for a Local Development Agreement to address certain commitments and vested rights in DRI-235 in conjunction with the amended Master Mining Plan for the Southeast Tract; and

WHEREAS, notice of the public hearing was published on, in a newspaper of local circulation; and

WHEREAS; the Manatee County Planning Commission held a duly-noticed public hearing on the Southeast Tract Master Mining Plan amendment, and has solicited, received and considered all testimony, reports, comments, evidence and recommendation from interested citizens, County agencies, and the applicant; and

WHEREAS; the Manatee County Planning Commission has filled a recommendation on this application; and

WHEREAS; the Manatee County Board of County Commissioners held a duly-noticed public hearing on the Southeast Tract Master Mining Plan amendment, and has solicited,

received and considered all testimony, reports, comments, evidence and recommendation from interested citizens, County agencies, and the applicant; and

WHEREAS; the Manatee County Board of County Commissioners has received and considered the review and report of the Manatee County Planning Commission; and

WHEREAS; the Manatee County Board of County Commissioners finds that the application to amend the Master Mining Plan meets the standards for Master Mining Plan contained in Ordinance 04-39* and is consistent with the Manatee County Comprehensive Plan (Ordinance 89-01, as amended); *and*

WHEREAS, both the Board and Mosaic agree that each of the conditions, limitations and restrictions included in this amended Master Mining Plan, in conjunction with the Local Development Agreement LDA-17-03, are reasonably necessary in order to avoid impacts that might otherwise result from the activities being permitted and meet the Development conditions and Developer commitments that were originally set forth in DRI Development Order; *leo*

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida, that the Board approves the Master Mining Plan Amendment for the Southeast Tract Mine, subject to the conditions, limitations and restrictions set forth as follows:

an amended and restated

A. AMENDMENT OF PRIOR SOUTHEAST TRACT MASTER MINING PLAN.

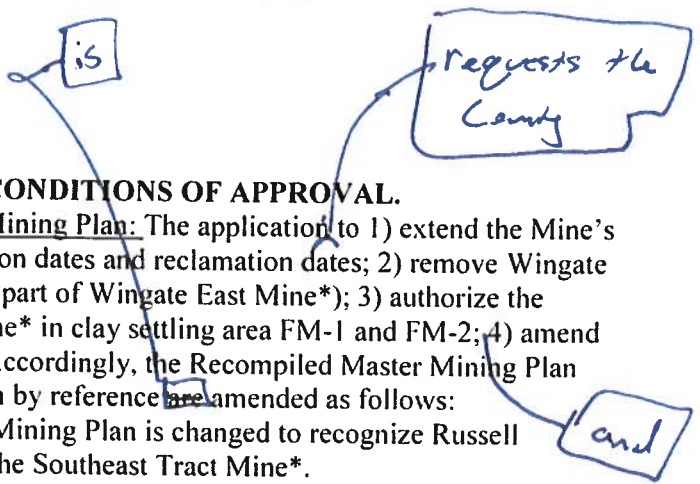
This Resolution (R-18-013) establishes a *revised* Master Mining Plan Approval for the Southeast Tract Mine*. All prior Master Mining Plans for Southeast Tract Mine* are superseded by this Resolution, except to the extent that a condition of, or exhibit to, a prior Master Mining Plan is specifically and expressly preserved hereby. Mining activities at the Southeast Tract Mine shall continue under the terms and conditions of the Master Mining Plan approved pursuant to R-08-009 from such time as Resolution R-18-013 is enacted and the time for all potential appeals and challenges has expired and if there is an appeal or challenge, the full conclusion of the appeal or challenge. If Applicant fails to prevail in any challenge, Southeast Tract Mine* Master Mining Plan R-08-009 shall continue in force and effect. The original Master Mining Plan and Operating Permit (R-00-271) for the Southeast Tract Mine* in Manatee County which was adopted on December 19, 2000, and was subsequently amended by Resolution R-08-009.

The Operating Permit for the Southeast Tract Mine* as approved in R-14-002 remains in full force and effect, unless amended.

B. FINDINGS.

The Board of County Commissioners, after considering the testimony, evidence, documentation, Application for Master Mining Plan amendment, and all other matters presented to the Board at the public hearing hereby makes the following findings of fact:

1. All “**WHEREAS**” clauses of this Resolution are adopted as findings of fact.
2. The real property which is the subject of this application is titled the Southeast Tract Mine (approximately 2,508 acres, legally described in Exhibit A and shown on Figure A, both of which are attached to and made part of this Resolution.
3. The owner and Developer of the Southeast Tract Mine* and the Wingate East Mine* and the Wingate Creek Mine* is Mosaic Fertilizer, LLC.
4. The authorized agent for the Developer* is Russell Schweiss, 13830 Circa Crossing Drive, Lithia, Florida 33547.
5. For purposes of this application, the Developer* is Mosaic Fertilizer, LLC.
6. On _____, the Planning Commission held a duly-noticed public hearing regarding the application for the Master Mining Plan amendment for the Southeast Tract Mine*, in accordance with the requirements of the Manatee County Land Development Code (Ordinance 90-01, as amended), and the Manatee County Comprehensive Plan (Ordinance 89-01, as amended), Manatee County Chapter 2-20 Phosphate Mining Code* (Ordinance 04-39*), and has further considered the testimony, comments, and information received at the public hearing.
7. The Board of County Commissioners has received and considered the report of the Planning Commission concerning the Application for the Master Mining Plan as it relates to the real Property described in Exhibit A of this Resolution.
8. On _____, the Board of County Commissioners held a duly-noticed public hearing regarding the Application for the Master Mining Plan amendment for the Southeast Tract Mine*, in accordance with the requirements of the Manatee County Comprehensive Plan (Ordinance 89-01, as amended), and Manatee County Chapter 2-20 Phosphate Mining Code* (Ordinance 04-39*), and has further considered the ~~testimony, comments and information~~ received at the public hearing.
Code of Ordinances
9. The amendments to the Master Mining Plan for Southeast Tract Mine* are found to be consistent with the requirements of the Manatee County Comprehensive Plan and Manatee County Chapter 2-20 Phosphate Mining Code*.
10. The approval granted pursuant to this Resolution authorizes the Developer* to apply for an amended Operating Permit for Southeast Tract Mine* to be considered for approval pursuant to the ~~Chapter 2-20~~ Phosphate Mining Code*, but does not entitle the Developer* to receive such approval.



SECTION C. MASTER MINING PLAN CONDITIONS OF APPROVAL.

Approval of Amended and Restated Master Mining Plan: The application to 1) extend the Mine's buildout dates (i.e. mining activities termination dates and reclamation dates; 2) remove Wingate Corridor Parcel* from mine boundary (now a part of Wingate East Mine*); 3) authorize the storage of waste clays from Wingate East Mine* in clay settling area FM-1 and FM-2; 4) amend the reclamation schedules and enforcement. Accordingly, the Recompiled Master Mining Plan for Southeast Tract Mine* incorporated herein by reference are amended as follows:

- a. Section 2 of the approved Master Mining Plan is changed to recognize Russell Schweis as the applicant agent of the Southeast Tract Mine*.
- b. Section 3 of the approved Master Mining Plan is changed to update the legal description to remove the Wingate Corridor Parcel*.
- c. Section 5 of the approved Master Mining Plan is amended to update the mining and reclamation sequence and schedules.
- d. Section 10 of the approved Master Mining Plan is amended to authorize the modification of the waste clay disposal plan to allow Wingate East Mine* clays to be deposited in Southeast Tract* clay settling areas.
- e. Section 20 of the approved Master Mining Plan is amended to reflect updated aerial photographs and mining and reclamation completed to date.
- f. Section 24 of the approved Master Mining Plan is amended to update the reclamation plan based on this application and the non-significant amendment of 2011.
- g. Section 25 of the approved Master Mining Plan is amended to update the Engineer's Certification.

This Master Mining Plan was developed in conjunction with Local Development Agreement, LDA No. 17-03.

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The approval granted pursuant to this Resolution authorizes the Developer* to apply for the transfer, new, or amendment of the Operating Permit for the Southeast Tract Mine* to be considered for approval pursuant to the Phosphate Mining Code*, but does not entitle the Developer* to receive such approval.

Section C.1. General Conditions

- 1. Project Terms: The Southeast Tract Mine* is approved for mining and reclamation, conditioned and limited herein as follows and detailed in Exhibit B, Mining and Reclamation Plan.

Southeast Tract	Overall Acreage	Wetlands	Uplands
Total Area	2,508	545.3	1,962.7
Undisturbed/Preserved	356	240	116
Undisturbed due to ERP/CRP mod**	65		
Reclamation to Date***	985	381*	604

* Wetland reclamation to total 509.8 acres when complete for a 1:1.7 ratio.

** Non-significant change to mining sequence and reclamation sequence in R-08-009 due to regulatory

setback from Audubon's Crested Caracara nest, approved by PNRD on September 22, 2011.

*** Reclamation projected in 2018 includes 10 acres of BMP* reclamation. Additional reclamation will not commence again until 2036 when mining activities in clay settling areas, associated corridors and supporting facilities are scheduled to cease.

2. Mining and Reclamation Schedule: It is expressly recognized that the mining blocks, rates and schedules provided in the application to amend the Master Mining Plan are estimates based upon the maximum rate anticipated. Accordingly, mining blocks and rates may vary depending upon market conditions and other permit requirements and schedules. However, reclamation and revegetation shall proceed immediately after mining activities cease in each parcel and in no case shall exceed the schedules for reclamation outlined in Table 35-5. Actual mining and reclamation acreages will be documented in the annual reports submitted to the Director*.
 - a. The unmined portion of the West Fork of Horse Creek shall be enhanced with 12.4 acres of tree planting, exotic vegetation treatment, removal of creek crossing spoil, and addition of stumps and woody debris to improve habitat diversity. Trees shall be planted at a density of 400 trees/acre.
 - b. The reclamation plan contains 133 acres of headwater marsh in Section 2, West Fork stream system and connected wetlands of 105 acres, and isolated wetlands adjacent to the West Fork stream system of 154 acres. Reclamation of the northern reach of the West Fork Horse Creek floodplain ~~to~~ precede in accordance with Manatee County reclamation modification approval letter dated September 22, 2011 and revised Maps 35G-1, 35G-2 and Figure 13-1. shall
3. Compliance with Other Permits and Approvals: Developer* shall obtain all the necessary construction and operation permits and approvals required by the applicable law, and shall fully comply, to the extent not inconsistent with this Master Mining Plan with all the provisions of applicable laws, ordinances, rules, regulations, or requirements of any federal, state, regional, or county governmental authority in connection with the proposed mining activities at Southeast Tract Mine*. Violation of any of the terms and conditions of said approvals or permits shall be deemed a violation of this Master Mining Plan.
4. Recompiled Master Mining Plan: A recompiled Master Mining Plan shall be submitted within three months after the adoption of the Master Mining Plan Resolution, compiling any changes directed by the Board or other agencies including detailed maps, updated tables, descriptions and other materials that are required by Section IV.A and Section V of the Phosphate Mining Code* and submit three (3) copies of the said documentation to the Director*, in accordance with paragraph 5, below.
5. Notice:
All notices, requests and annual reports provided for herein shall be in writing and shall be hand-delivered or sent through the U.S. Mail, addressed as follows:

To the County:
Manatee County Parks and Natural Resources Department
P.O. Box 1000
Bradenton, Florida 34206-1000

The Developer* shall

- c. Monitor and correct for any point/nonpoint sources of pollution including erosion.
 - d. Where feasible, the reintroduction of locally extirpated, rare, and/or listed floral and faunal species should be encouraged once the plant community has developed sufficiently to support the species.
 - e. The Developer* shall be responsible for maintenance of all reclaimed areas until such times that those areas are approved as reclaimed by Manatee County in accordance with the procedures established in Ordinance 04-39*.
8. **Radiation:** The Southeast Tract Mine* shall continue to adhere to the Radiation conditions described in Exhibit D – Amended and Restated Development Order Conditions, in Mining Operations Section.
9. **Wetlands:**
 - a. Southeast Tract Mine* has adhered to and shall continue to adhere to the Wetland conditions described in Exhibit D – Amended and Restated Development Order Conditions, in Wetland Section.
 - b. Mitigation areas monitoring results shall be included in the Manatee County Operating Permit annual progress report.
10. **Floodplain Restrictions:**
 - a. The 25-year Floodplain* in Sections 13 & 14, Twp. 34S, Rng. 22E shall not be disturbed by mining activity. The 25-year Floodplain* in Section 11 & 12 will be mined and restored according to the plan as shown on Map H-9 and Map H-3.
 - b. No impervious surfaces shall be constructed in the 25-year Floodplain*.
11. **Utility and Pipeline Crossings:** Utility and pipeline crossings of the tributaries shall, at a minimum, meet the conditions described in Exhibit D – Amended and Restated Development Order Conditions, in General Conditions Section.
12. **Wildlife Habitat Management Plan:** Developer* shall continue to implement general protection measures and habitat management activities as described in the recompiled Master Mining Plan, Appendix 23-B Wildlife Habitat Management Plan, which have been approved by Florida Fish and Wildlife Conservation Commission (FFWCC) and U.S. Fish and Wildlife Service (FWS).
 - a. In the event that any listed species listed in Rule 68A-27.003 – 68A-27.005, F.A.C. are observed nesting or breeding at the Southeast Tract Mine* in an area disturbed by mining operations, the Developer* shall immediately notify the FFWCC and implement the recommended measures for species protection.
 - b. Implementation activity associated with the approved Wildlife Habitat Management Plan or listed species permitting will be reported in the Manatee County Operating Permit annual progress report.
 - c. Reclamation of lands in the primary and secondary buffer zones of eagle nest MN041 shall be completed in accordance with state and federal guidance for work conducted during non-nesting season.