

Alissa Powers

From: William Clague
Sent: Wednesday, April 04, 2018 9:30 AM
To: Alissa Powers
Cc: Robert Brown; Sia Mollanazar
Subject: RE: Wingate Creek MMP revised documents

Alissa:

I have no additional legal comments. I have not heard back from Sia regarding the proposed stip for Duette Bridge that I sent him on Friday. I have no objection to share the documents with the applicant with the understanding that a revised stip on that issue is forthcoming.

Bill.

From: Alissa Powers
Sent: Wednesday, April 04, 2018 8:56 AM
To: William Clague <william.clague@mymanatee.org>
Cc: Robert Brown <rob.brown@mymanatee.org>
Subject: FW: Wingate Creek MMP revised documents

Bill,
Here are the revised Staff Report, MMP and attachment based on RLS comments and meeting with the applicant on March 23, 2018.

Please let us know if you have any additional comments or if they are ready to be sent to the applicant.

Thank you,

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

From: Alissa Powers
Sent: Wednesday, April 04, 2018 8:40 AM
To: Robert Brown <rob.brown@mymanatee.org>
Subject: Wingate Creek MMP revised documents

Rob,
Here are the revised Staff Report, MMP and attachment based on RLS comments and meeting with the applicant on March 23, 2018. They are ready to be sent to Mosaic.

I am taking a sick day for the rest of the day.

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

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16. Duette Bridge Replacement: Duette Bridge #134030 is approaching its planned useful lifespan and has been identified for replacement/upgrade during the timeframe of this MMP. Traffic may be suspended along Duette Road during construction/repairs.

The projected cost of replacing the Duette Bridge is \$1,200,000. Developer's proportionate share of the cost of replacing the Duette Bridge, based on the ___ percent (___%) transportation impact of Developer's truck hauling activities, is \$_____. During the MMP Developer shall maintain with the County a performance security equal to Developer's proportionate share of the replacement cost, to be adjusted annually in accordance with [IDENTIFY CAPITAL COST INDEX].

In the event that an unexpected bridge outage or structural instability occurs that renders continued use of the Duette Bridge unsafe for the Developer's phosphate truck traffic prior to any Amendment to this Master Mining Plan, Developer may file an emergency application for an amendment to the Operating Permit for consideration of an emergency approval for an alternative haul route(s) for its phosphate truck traffic. The alternative haul route will be identified in an amendment to the Operating Permit. The County shall have the right to draw against the Developer's performance security to pay the Developer's proportionate share of the cost replacing the Duette Bridge.

Upon completion of the replacement of the Duette Bridge, the Developer shall be released from the requirement to maintain a performance security with the County for its proportionate share of the replacement costs. Developer and the County may elect to enter into an agreement to provide for the replacement of the Duette Bridge in accordance with County practices and applicable law.

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-18-012 – MASTER MINING PLAN

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING THE MASTER MINING PLAN OF THE WINGATE CREEK MINE TO AUTHORIZE THE FOLLOWING; AMENDING WINGATE'S TRUCKING SCHEDULE, MINE PLAN SCHEDULES; APPROVING BENEFICIATE / PROCESS WINGATE EAST MINE* PHOSPHATE ORE AT THE WINGATE PLANT; ALLOWING THE EXCHANGE OF WINGATE EAST MINE* SAND TAILINGS AND OVERBURDEN WITH WINGATE CREEK MINE; UPDATING THE WASTE DISPOSAL PLAN; ALLOWING THE CONTINUED USE OF THE APPROVED WINGATE CORRIDOR; PROVIDING RECLAMATION SCHEDULES AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE; EXTEND A BUILDOUT DATE FOR MINING UNTIL July 31, 2037, TRUCKING UNTIL July 31, 2037 AND RECLAMATION UNTIL December 31, 2042.

The Wingate Creek Mine, consisting of ± 3,028 acres, is west of Duette Road, south of the Duette Preserve, east of Logue Road, and north of Winding Creek Subdivision in Sections 6, 19, 20, 21, 28, 29, 30, and 31, Range 22 East, Township 34 South, approximately 2 miles north of SR 64; in Duette, Florida.

P.C.:

B.O.C.C.:

RECOMMENDED MOTION

Based upon 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-18-012, Master Mining Plan for Wingate Creek Mine, as recommended by staff.

Staff Response: Mining extraction activities are not proposed to occur within the Lake Manatee River Watershed in this application.

9. Clay settling areas shall be located only on lands that have been previously mined, or which have approval for future mining.

Staff Response: The Wingate Creek Mine approvals predates Ordinance 04-39, therefore the initial clay settling area (ISA) is located on unmined lands. However, the applicant was permitted in R-13-001 to relocate the clays from the ISA and mine the land. This will result in a more natural reclamation plan.


10. All mining activities shall be in compliance with local, state, and federal noise regulations.

Staff Response: Several noise studies have been performed over the years of operation and Wingate Creek Mine is in compliance with the applicable noise regulations. The most recent noise study, conducted January 2012, indicated that the mine did not exceed the levels as prescribed in Section 2-21-34 of the Phosphate Mining Code. In addition, the applicant has retrofitted heavy equipment with strobe lights instead of audible alarms, retrofitted truck with backup smart alarms, and re-oriented dredges in order to further reduce noise. Proposed activities will continue to be consistent with current operations and applicable noise regulations.

11. All lighting associated with mining activities shall be in compliance with Section 723.3.5 of the Land Development Code, as amended, or its successor provisions.

Staff Response: Lighting is in compliance with the requirements of the Land Development Code. In addition, the applicant has agreed to replace plant and dredge lights with LED lighting. This retrofit project began in October 2012. All lighting associated with mining activities will continue to comply with Section 806 of the Land Development Code.

ATTACHMENTS:

Swatch  **Draft Resolution R-18-012, Master Mining Plan
Appendix A, Consistency with Comprehensive Plan Summary
Proof of Advertisement**

Appendix A: Consistency with Comprehensive Plan Summary

See enclosed
Comments re
scope
of
analysis

The Future Land Use Category of the project area and surrounding property is AG/R – Agricultural Rural. Uses potentially allowed within the AG/R Future Land Use Category include a wide variety of agricultural used, rural residential, small retail and office, mining and mining related uses, recreational uses, school, public, and semi public uses. The following policies were considered in review and consideration of the proposed master mining plan amendment. The Master Mining Plan 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.

The Wingate Creek Mine, Wingate East, 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 amendment to the Wingate Creek Mine will allow mining extraction activities on lands within the existing Wingate Creek Mine and the continued use of existing infrastructure on Wingate Creek Mine, Wingate East, and SE Tract. The proposed operation 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 amendment is an extension of mining within the active Wingate Creek Mine in areas currently not approved for extraction activities. The processing of the phosphate ore will be conducted at the Wingate Creek Mine beneficiation plant. The Wingate Creek Mine Infrastructure Corridor will continue to be used for transport of matrix, residual clays and sand tailings. 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...

MASTER MINING PLAN
RESOLUTION R-18-012

See emailed comments re realigning

A Resolution of the Board of County Commissioners of Manatee County, Florida, amending the Master Mining and Reclamation Plan of the Wingate Creek mine to authorize the following: amending Wingate's trucking schedule, mine plan, and reclamation plan; allowing exchange of Wingate East* sand tailings and overburden with Wingate Creek Mine; approving beneficate / process Wingate East* phosphate ore at the Wingate Plant; updating trucking schedule with no increase in trucking volume; amending the Environmental Monitoring Program; providing for an effective date; providing reclamation schedules and enforcement; providing for severability; extending the buildout date for mining until July 31, 2037, trucking until July 31, 2037, and reclamation until to December, 31, 2042.

all caps

WHEREAS, pursuant to the provisions of Chapter 2-20 of the Manatee County Code of Laws, the Manatee County Phosphate Mining Code 04-39 (Phosphate Mining Code), Mosaic Fertilizer, LLC, (Mosaic) FKA Cargill Fertilizer LLC., as successors in title to Nu-Gulf Industries, Inc. (NGI), has timely submitted to Manatee County, Florida, (County) an Application for amendment of the Master Mining Plan for the Wingate Creek Mine, together with certain supplemental and supporting documents and materials to conduct phosphate mining operations at said Wingate Creek Mine pursuant to Resolutions identified herein and upon the real property described and mapped in Exhibit 'A'; and

and

WHEREAS, pursuant to the Phosphate Mining Code, Mosaic has requested an amendment to: 1) extend the mine's buildout dates (i.e. life of mine, trucking schedule, expiration dates, and reclamation dates); 2) allow the exchange of materials between Wingate East*, Ft. Green Remnants* Wingate Creek Mine and Southeast Tract; 3) beneficate and process Wingate East* reserves at the Wingate Plant; 4) modify the waste disposal plan to agree with Wingate East* Master Mining Plan; 5) update the Reclamation Plan to agree with the FDEP Conceptual Plan MOS-WC-CPF; 8) amend the Environmental Monitoring Plan to include the Guidelines for Environmental Monitoring; and

WHEREAS, pursuant to the provisions of Chapter 2-20 of the Manatee County Code of Laws (Mining Code), Mosaic Fertilizer, LLC, (Mosaic) FKA Cargill Fertilizer, LLC, as successor in title to Wingate Creek Holdings, LLC is substituted as the Applicant for Wingate Creek Holdings, LLC; and

WHEREAS, Mosaic Fertilizer, LLC, has an approved Master Mining Plan for the Wingate Creek Mine; and

WHEREAS, the original Master Mining Plan for the Wingate Creek Mine in Manatee County was adopted on October 11, 1975. This Master Mining Plan was subsequently amended by Resolutions R-88-236 (approving a settlement agreement where under Manatee County acquired portions of the mine property lying within the Lake Manatee Watershed), R-91-250 (amending the Master Mine Plan to conform to the Amended DRI Development Order) and R-97-242 (amending the Master Mining Plan to conform to the Amended DRI Development Order), R-04-203 (transferring and amending the Master Mine Plan to Cargill Fertilizer, LLC. to conform to the Amended DRI Development Order), R-08-007 (recognizing the name change

from Cargill Fertilizer, LLC to Mosaic Fertilizer, LLC and amending the Master Mining Plan to conform to the Amended DRI Development Order), and R-13-001 (amending the Master Mining Plan to conform to the amended DRI Development Order); and

WHEREAS, MOSAIC FERTILIZER, LLC currently owns and intends to operate and reclaim the Wingate Creek Mine; and

WHEREAS, on May 2, 2017, Manatee County received an application from MOSAIC FERTILIZER, LLC to amend the Master Mining Plan for the Wingate Creek Mine with the Manatee County Board of County Commissioners, pursuant to the provisions of Section 2-20 of the Manatee County Code of Laws; and

WHEREAS, on November __, 2017 Mosaic filed with Manatee County an application for a Local Development Agreement to address certain conditions, commitments and vested rights in DRI DO 13-01 in conjunction with this amended Master Mining Plan; and

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

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

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

WHEREAS, the Board of County Commissioners of Manatee County, on _____, held a duly-noticed public hearing on the Amendment to the Master Mining Plan and has solicited, received, and considered all testimony, reports, comments, evidence, and recommendations 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 Board of County Commissioners of Manatee County finds that the application to amend the Master Mining Plan meets the standards for Master Mining Plan approval in Chapter 2-20 of the Manatee County Phosphate Mining Code including the vested portions of the mine as authorized under Section 2-20-4; 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).

NOW THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Manatee County, Florida, that the Board approves the Master

Mining Plan for the Wingate Creek Mine Amendment, subject to the conditions, limitations and restrictions set forth as follows:

A. AMENDMENT OF WINGATE CREEK MINE MASTER MINING PLAN.

This Resolution establishes an amended ^{and restated} Master Mining Plan Approval for the Wingate Creek Mine*. All prior Master Mining Plans for Wingate Creek 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 Wingate Creek Mine shall continue under the terms and conditions of the Master Mining Plan approved pursuant to R-13-001 from such time as Resolution R-18-012 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-13-001 shall continue in force and effect.

The Operating Permit for the Wingate Creek Mine* as approved in R-13-002 remains in full force and effect, unless amended.

B. FINDINGS.

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

1. All "WHEREAS" clauses proceeding Section A of this Resolution are adopted as findings of fact.
2. The real property which is the subject of this application is titled the Wingate Creek Mine (approximately 3,028 acres) as described in Exhibit A of this Resolution.
3. The owner and Developer* of 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. The proposed amendments to the Wingate Creek Mine* are found to be consistent with the requirements of the Manatee County Comprehensive Plan, and the Manatee County Chapter 2-20 Phosphate Mining Code (Ordinance 04-39*), provided the Developer proceeds in accordance with the Conditions specified in this Resolution, the existing Operating Permit and all subsequent operating permits.
7. All mining operations shall be conducted in strict compliance with Manatee County Phosphate Mining Code (Ordinance 04-39), the approved Master Mining and

Development

Reclamation Plan for the Wingate Creek Mine, the approved Operating Permit, and all applicable approvals and permits issued by a federal or Florida governmental agency or entity and in conjunction with the Local Developer Agreement # ___. Violation of any of the terms and conditions of said approvals or permits shall be deemed a violation of this Master Mining Plan.

SECTION C. MASTER MINING PLAN CONDITIONS OF APPROVAL.

requests the County

Approval of Amended and Restated Master Mine Plan: The application to 1) extend the mine's buildout dates (i.e. life of mine, trucking schedule, expiration dates, and reclamation dates); 2) allow the exchange of materials between Wingate East*, Ft. Green Remnants* Wingate Creek Mine and Southeast Tract; 3) beneficiate and process Wingate East* reserves at the Wingate Plant; 4) modify the waste disposal plan to agree with Wingate East* Master Mining Plan; 5) update the Reclamation Plan to agree with the FDEP Conceptual Plan MOS-WC-CPF; 6) modify the water balance and hydrology study, and 7) amend the Environmental Monitoring Plan to include the Guideline for Environmental Monitoring;

Except as otherwise provided below, Mosaic shall operate the Wingate Creek Mine in full compliance with the approved master mining plan and subject to Chapter 2-20 of the Manatee County Code of Laws, as amended from time to time; the "Manatee County Phosphate Mining Code - Ordinance 04-39." Pursuant to the Manatee County Phosphate Mining Code, Mosaic has a vested right to conduct certain mining and reclamation activities at the Wingate Creek Mine established in the provisions of ADA (attached to R-88-236 as Exhibit C) and the Application for Amendment (attached as Exhibit D to R-88-236) in accordance with Ordinance 81-22. Accordingly, the Master Mining Plan Resolutions (R-88-236, R-04-203, R-08-007 & R-13-001) for Wingate Creek Mine expressly modified the above approvals, incorporated herein by reference are amended as follows:

A. Section 2 of the approved Master Mining Plan is changed to recognize Russell Schweiss as the applicant agent of the Wingate Creek Mine.

B. Section 5 of the approved Master Mining Plan is amended to update the mining and reclamation sequence and schedules and incorporating Development Order conditions and developer commitments.

C. Section 10 of the approved Master Mining Plan is amended to reflect the Wingate East Life of Mine Waste Disposal Plan as approved in Wingate East MMP R-17-017.

D. Section 12 of the approved Master Mining Plan is amended to extend the use of the roadway network from July 31, 2023 to July 31, 2037 [noting that no route change in Manatee County and no increase in product shipment is proposed from Wingate].

E. Section 15 of the approved Master Mining Plan is amended to reflect all applicable permits for the project area.

F. Section 17 of the approved Master Mining Plan is amended to extend the projected monthly water balance estimates out to the amended expiration date of July 31, 2037. This adjusted also aligns the Master Mining Plan with the Conceptual Reclamation Plan (MOS-WC-CPF).

G. Section 20 of the approved Master Mining Plan is amended to reflect the amended mining and reclamation plans.

H. Section 22 of the approved Master Mining Plan is amended to update the Environmental Monitoring Program.

I. Section 23 of the approved Master Mining Plan is amended to update the Cumulative Impact Analysis to include Wingate East Mine in accordance with the Phosphate Mining Code.

J. Section 24 of the approved Master Mining Plan is amended to update the reclamation plan to be consistent with Conceptual Reclamation Plan (MOS-WC-CPF). Table 24-2 and Map H-8 depicts those lands which are to be reclaimed to Ordinance 04-39 standards. All reclamation shall be completed by December 31, 2042.

M. Section 25 of the approved Master Mining Plan is amended to update the Engineer's Certification.

and restates
As amended herein, the Master Mining Plan approved for the Wingate Creek Mine amends Resolution R-13-001. The development of Wingate Creek Mine shall be in conformity with this resolution and the recompiled Master Mining Plan, except as it is expressly modified by subsequent ordinances or resolutions of the County.

This Master Mining Plan was developed in conjunction with Local Development Agreement, LDA No. 17-04.

? The approval granted pursuant to this Resolution authorizes Mosaic to apply for the transfer, new, or amendment of the Operating Permit for the Wingate Creek Mine to be considered for approval pursuant to Chapter 2-20 (The Manatee County Phosphate Mining Code 04-39), but does not entitle Mosaic to receive such approval.

Section C.1. General Conditions

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

Wingate Creek Mine	Overall Acreage
Total Area	3,028
Undisturbed/Preserved	449
Reclamation to Date	1051

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

Chapter 872 of the Florida Statutes (872.05) will apply. Chapter 872, F.S. states that, when human remains are encountered, all activity that might disturb the remains shall cease and may not resume until authorized by the District Medical Examiner (if the remains are less than 75 years old) or the State's Archaeologist (if the remains are more than 75 years old).

Section C.2. Mining Operations

1. Hours of Operations: Hours for operations of the mine are typically 24 hours per day, 7 days per week. Mosaic agrees not to use horns for communications on the dredges. Where possible, LED lighting will be installed. Operational lighting will be mitigation by the installation of the visual buffer in the setback area described in Stipulations 4 and 17. If there are complaints or concerns on noise or light issues, Wingate Creek Mine operations personnel can be contacted at 941-322-6801, to promptly investigate and reach a fair resolution in consultation with Manatee County.

2. Setbacks: Mosaic will adhere to the approved setbacks, described in Exhibit H – Amended and Restated Development Order Conditions, Section C, Manatee County Code of Laws Condition No. 2.

3. Waste Clay Disposal: Developer shall provide an annual update on the existing capacity of clay settling areas FM-1, FM-2 (Southeast Tract Mine), WE-1 (Wingate East Mine) and ISA in dry clay tons and the waste clay production schedule for Wingate Creek beneficiation plant in the annual reporting cycle. The waste clay capacity shall be expressly approved by the Director in writing.

- a. No operating permit for the mining of the initial clay settling area will be issued unless and until the applicant has demonstrated that it has secured (through necessary approvals) sufficient uncommitted storage capacity for the clays generated by such mining.
- b. The Developer shall provide an annual update on the existing capacity of clay settling areas FM-1, FM-2 and WE-1 in dry clay tons and the waste clay production schedule for the next fiscal year. In no event shall clay production exceed the permitted storage capacity in Manatee County, including capacity for 8.1 MM tons of clay currently stored in Hardee County. The waste clay capacity shall be expressly approved by the Director in writing.

4. Clay Settling Area Abandonment: Prior to the abandonment of the Initial Clay Settling Area (ISA) southern dam wall, Mosaic shall formulate a landscape berm design. The sight berm will be in the same location as the ISA southern dam wall, will be at least 10 ft. in height, and will assist in blocking the view of mining the ISA from Winding Creek subdivision. The berm is subject to and shall be landscaped with vegetation as described below: The design shall include 3 to 5 gallon wax myrtles planted on 10 ft. centers to provide a visual screen along the top of the berm. The berm side slopes and landscape buffer shall be planted in three rows spaced 20 ft. apart on 30 ft. centers with slash pines, live oaks, or other suitable canopy trees. Tree rows shall be planted in staggered pattern and will be a minimum of 3 in. caliper and a minimum of eight ft. in height.

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- a. The berm design and landscape plan shall be submitted for review and express written approval of the Director*.

5. Best Possible Technologies: Best Possible technology will be used to provide the maximum protection possible for the public health, safety, and welfare and which minimizes to the greatest degree possible any adverse impacts of mining on the watershed of the Lake Manatee reservoir. Any flow of surface water from the plant area and sand tailings pile in Sections 20(S ½) & 30(NE ¼) of Twp.34 S Range 22E, will be intercepted by ditch and berm systems and redirected away from the Lake Manatee Watershed. Waters will be released only through approved NPDES outfalls.

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6. Dredge Mining: The Developer* has committed to maintaining a dredge mine operation at Wingate Creek Mine.

7. Lake Manatee River Watershed: No new mining extraction activities are permitted within the historical Lake Manatee Watershed.

- a. Prior to the commencement of extraction activities in 2011 Amendment Area 2 and Area 3 (Map H-5), Mosaic shall have the watershed boundary staked in the field using available historical survey information.
- b. Mosaic's predecessor constructed an earthen berm between five and ten feet in height adjacent to mining activities to buffer and protect the Lake Manatee watershed property from mining and reclamation activities. Following the conclusion of mining activities, the berm shall be reshaped to grade into the existing natural topography.

8. Stockpiling: Stockpiling of overburden or sand tailing within 1500 feet (north) of the Winding Creek Subdivision in Sections 28 & 29 shall be limited to a maximum height of 25 feet.

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9. Site Maintenance: Manual or chemical treatment shall be implemented if the following species coverage exceeds ten (10) percent within 300 feet of Duette Preserve and/or Wingate Creek Corridor- Level I and II species including: cogon grass, air potato, downy rose myrtle, Lygodium sp.

10. Reclamation Plan: Reclamation shall be conducted in accordance with Conceptual Reclamation Plan CPF or future Conceptual Reclamation Plan amendments and this MMP as follows:

- a. Reclamation of the 2011 Amendment Areas shall be subject to Ordinance 04-39, Appendix E, with the exception of those areas previously disturbed by mining activities in which case the Reclamation Manual Guiding Principles Section II, Flora Sections a, g-j, o, and u and Fauna Sections a, b, and c and Section III, Management/Monitoring Guidelines I will not apply (except as required in Condition 9 above). See Exhibit D and Map H-8.
- b. 2011 Amendment Areas shall adhere to Exhibit H- Amended and Restated

provided herein, shall be subject to additional review by county, regional and state agencies as the need may arise.

16. Duette Bridge Replacement: Duette Bridge #134030 is approaching its planned useful lifespan and has been identified for replacement/upgrade during the timeframe of this MMP. Traffic may be suspended along Duette Road during construction/repairs. No alternate haul route is approved as part of this approval. Developer will cease hauling until the bridge is reopened. This will not affect expiration dates.

See amended
comment

17. Landscape Berm: Mosaic shall maintain the 300 ft. setback for mining along the northern boundary of the Winding Creek Subdivision in Sections 28 & 29, Township 34 South, Range 22 East, Manatee County, Florida including the landscape berm which was designed and constructed in accordance with Exhibit D, Amended and Restated Development Order Conditions, General Mining and Reclamation Condition No. 10.

18. Private Well Water Quality Sampling Program: Mosaic shall continue the private well water quality sampling program in accordance with Exhibit H – Amended and Restated Development Order Conditions, General Mining and Reclamation Matters No. 12 and Wingate Creek 2011 Amendment Condition No. 13.

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- a. Details of the sampling program shall be included in the Operating Permit, including a map denoting sampled and unsampled wells.
- b. Subsequent sampling will be conducted by Mosaic if notified by Winding Creek residents in lots noted above, due to a suspected water quality issue. If such an issue is identified, Mosaic will conduct an investigation of the complaint and file a report with Manatee County Parks and Natural Resources Department and the subject property owner.
- c. If any drinking water well at Winding Creek Subdivision is found to be contaminated by exceedences of drinking water standards and which is based upon a finding that Mosaic is responsible for this contamination, Mosaic shall within 24 hours provide in its sole discretion, an alternative drinking water source until the contamination is remediated by Mosaic.

19. Water Quality Standards: Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The Developer* shall implement BMPs* for erosion and pollution control to prevent violation of state water quality standards. The Developer* shall maintain compliance with NPDES Permit No. FL0032522, as amended, and adhere to Exhibit H – Amended and Restated Development Order Conditions, Section C, General Mining and Reclamation Matters, Condition No. 16.

20. Drainage Basins: The drainage basins in Wingate Creek Mine* shall be restored to their approximate pre-mining size and location as depicted in the Hydrologic and Hydraulic Evaluations (Ardaman and Ardaman, revised Sept. 2015) which will be included in the Recompiled Master Mining Plan.

21. Wildlife Habitat Management Plan: Developer* shall adhere to the conditions described

in Exhibit H- Amended and Restated Development Order Conditions, 2011 Amendment Areas Condition No. 6 and continue to implement general protection measures and habitat management activities as described in the recompiled Master Mining Plan, which have been approved by Florida Fish and Wildlife Conservation Commission (FFWCC) and U.S. Fish and Wildlife Service (FWS).

22. Best Management Practices: Developer* shall utilize Best Management Practices* (including revegetation, reforestation, erosion control measures, etc.) for all mined or disturbed lands to accelerate and ensure the successful establishment of the natural vegetative associations that the reclamation areas are designed to support. Developer* shall adhere to Best Management Practices* described in Exhibit H – Amended and Restated Development Order Conditions, 2011 Amendment Conditions, No. 17.

23. Geotechnical: The Applicant shall operate and inspect the initial clay settling area in accordance with FDEP Administrative Rules Chapter 62-672, F.A.C.

24. Developer Commitments: Develop* shall abide with all Develop Commitments listed in Exhibit H – Amended and Restated Development Order Conditions which have not been expressly modified in this MMP.

25. Definitions: Except as specifically defined herein, terms used in this Resolution shall govern and be defined in a manner consistent with the Manatee County Chapter 2-20 Phosphate Mining Code and the Manatee County Comprehensive Plan (Ordinance 89-01, as amended).

- a. "Appendix E" shall mean Ordinance 04-39 Appendix E – Reclamation Manual.
- b. "Best Management Practices" or "BMP*" shall mean practices that are technologically and economically practicable and most beneficial in preventing or reducing adverse impacts from mining activities. For more specific information and examples, see the same definition in the Manatee County Comprehensive Plan.
- d. "Chapter 2-20 Phosphate Mining Code" – "Ordinance 04-39" shall mean the Manatee County Phosphate Mining Code Ordinance 04-39 as codified and found in Chapter 2-20, MINING AND RECLAMATION, of the Code of Laws of Manatee County, Florida.
- e. "Developer" shall mean Mosaic Fertilizer, LLC, their assigns, agents, and successors in interest as to the Wingate East Mine, Wingate Creek Mine, and Southeast Tract.
- f. "Department" shall mean the Manatee County Parks and Natural Resources Department. Written approvals, as required herein, shall be issued by the Department Director, or his or her designee.

Wingate Creek Mine*, the time period for conducting any activity authorized or required by this Master Mining Plan approval for the Wingate Creek Mine* shall be tolled until such time as the appeal or challenge has been finally decided by a tribunal of competent jurisdiction and all appellate remedies associated therewith have been exhausted. No action shall be required to amend this Master Mining Plan approval for the Southeast Tract Mine* or any attachment or exhibit thereto to effectuate this tolling provision.

SECTION F. EFFECTIVE DATE.

This Resolution shall become effective upon its adoption by the Board of County Commissioners of Manatee County, Florida.

ADOPTED, with a quorum present and voting, this ____ day of February, 2018.

**BOARD OF COUNTY
COMMISSIONERS OF MANATEE
COUNTY, FLORIDA**

Larry Bustle, Chairman

update

**ATTEST: R.B. SHORE
Clerk of the Circuit Court**

By: _____