

RESOLUTION R-19-058 – OPERATING PERMIT

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING PHOSPHATE MINING; ISSUING TO MOSAIC FERTILIZER, LLC AN OPERATING PERMIT FOR THE ALTMAN TRACT - PARCEL #4*; AUTHORIZING CONTINUED MINING ACTIVITIES IN ACCORDANCE WITH THE APPROVED MASTER MINING AND RECLAMATION PLAN; ESTABLISHING CONDITIONS FOR MINING AND RECLAMATION ACTIVITIES OF THE ALTMAN TRACT – PARCEL #4, INCLUDING FINANCIAL ASSURANCE AND FINANCIAL RESPONSIBILITY; MINING AND RECLAMATION SCHEDULES; ENVIRONMENTAL MONITORING AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

B.O.C.C.: September 10, 2019

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 No. 04-39, Development Order (Ord. No. 08-32) and Master Mining Plan Resolution R-09-010 as conditioned herein, I move to ADOPT Resolution R-19-058 as recommended by staff.

CASE SUMMARY

APPLICANT: Mosaic Fertilizer, LLC

REQUEST: Approval of a Resolution issuing an Operating Permit for the Altman Tract – Parcel #4

**STAFF
RECOMMENDS:** APPROVAL

DISCUSSION:

The Phosphate Mining Code, Ordinance 04-39 (codified as Chapter 2-20 of the Code of Ordinances), requires operating permits be issued for a period of five years. Six months prior to the expiration of an existing operation permit, the applicant shall apply for a new operating permit. Pursuant to Ordinance 04-39 and Master Mining Plan R-09-010, Mosaic Fertilizer, LLC is applying for an operating permit for the Altman Tract – Parcel #4 (aka Parcel #4). Section 2-20-41(6) of the Ordinance provides that the applicant bears the initial burden of demonstrating that the mining activities proposed under the Operating Permit will be consistent with the requirements of the Ordinance. This Operating Permit does not change the final reclamation completion date of December 31, 2024.

BACKGROUND:

The requested Operating Permit concerns the continuation of mining activities at the Parcel #4. The Operating Permit application covers the third 5-year period of operation, consisting primarily of reclamation activities scheduled to be completed by December 31, 2024. The Parcel #4 (±2,048 acres) is located east of State Road 37 and north of State Road 62. It is adjacent to Four Corners Mine on the west, north and east and the County-owned Duette Headwaters Preserve to the south.

The Parcel #4 has a long permitting history starting in 2001. The BCC approved the Rezone and Development Order (Ord. 08-32) on January 15, 2009, pursuant to the Settlement Agreement of December 2008. The Master Mining Plan (R-09-010) and the Operating Permit (R-09-011) were approved by the BCC on February 5, 2009. The Development Order and Master Mining Plan contain a considerable amount of protective conditions for wetlands including the conveyance of a conservation easement over the central marsh and the offsite conservation of pristine wetlands on Wingate East Mine (fka Texaco Tract) until such time as onsite wetlands are satisfactorily reclaimed. Subsequently in 2014, an Operating Permit (R-14-004) was approved by the BCC for another five-year time period.

Status of Mining Activities:

All mining extraction has been completed. A total of 1,160 acres have been mined and 359 acres have been disturbed since the County approvals were received in 2009.

Approximately 867 acres of reclamation has been completed. This reclamation includes 243 acres of wetland mitigation and the removal of 20,000 feet of recharge ditches and associated berms, reconnecting the reclaimed lands to the West Fork of Horse Creek watershed. The remaining 652 acres of reclamation, including 250 acres of wetland mitigation is scheduled to be completed during this 5-year Operating Permit.

Additionally, the Rye Preserve Nature Center was opened to the public on January 9, 2016. In accordance with Ordinance No. 08-32, Development Condition N.(3), Mosaic provided \$75,000 in monetary assistance towards the construction of the environmental exhibits and building improvements.

Status of Operating Permit Application:

- The current Operating Permit expired February 27, 2019, but according to the Phosphate Mining Code, the mining operation may continue until new operating permit is heard by the Manatee County Board of County Commissioners, so long as an application for a new operating permit is on file with the County.
- On December 21, 2018, Mosaic Fertilizer, LLC filed an Application for an OP for the Parcel #4, pursuant to the provisions of the Phosphate Mining Code, with subsequent Additional Information submittals.
- The Application for OP was deemed complete on May 1, 2019 according to the requirements of Ordinance 04-39 Section IV.C.
- The Parcel #4 will meet the standards of Ordinance 04-39 except when specifically stated in R-09-010 to meet the standards of Ordinance 81-22.
- Notice of the OP public hearing was published on August 28, 2019 in newspapers of local circulation.
- Financial Responsibility calculations have been provided according to requirements of Ordinance No. 04-39. Resolution R-19-058 provides for a general surety bond rider and reclamation surety bond rider to be posted within sixty (60) days of its approval. This will correspond to the current Annual Progress Report bond review cycle.

STANDARDS FOR OPERATING PERMIT APPROVAL:

The following standards for OP approval were considered in preparing this staff report and are important to consider in evaluating the proposal.

1. Are the mining activities reflected in the OP consistent with MMP, R-09-010?

Staff Response: Yes, the OP is consistent with MMP R-09-010. This is a continuation of mining and reclamation activities at the Parcel #4. All extraction activities were completed in February 2019. Reclamation is expected to be completed by December 31, 2024 as authorized by Development Order (Ord. 08-32).

2. Has confirmation of baseline radiation measurements been provided for the area to be mined during the initial year of the operating permit?

Staff Response: All baseline radiation measurements have been collected by the Florida Department of Health. Radiation standards are provided for in Item 27 of the proposed Resolution R-19-058.

3. Has the applicant provided engineering specifications and design drawings at suitable scale for all aspects of mining activities for the life of the operating permit for which specifications and drawings have not been previously submitted?

Staff Response: Yes, staff has received and deemed sufficient all modified figures, tables, and exhibits for the continuation of mining and reclamation activities. These figures, tables and exhibits are included in the recommended OP, Resolution R-19-058, Exhibit F.

4. Have plans or narratives showing how nonpoint sources of air and water pollution, including fugitive dust, shall be controlled in accordance with applicable State and local requirements?

Staff Response: Yes, the applicant will continue to comply with the State of Florida NPDES permit and promulgated air quality standards.

5. Have plans been submitted showing how clays, waste material and other materials with high clay content shall be disposed of only within clay settling areas or sand/clay reclamation sites?

Staff Response: Yes, all extraction activities were completed in February 2019 and all waste clays have been accounted for in the Four Corners Mine waste clay settling areas.

6. Has a detailed description of any changes to the Environmental Monitoring Program of the approved MMP been submitted?

Staff Response: No changes have occurred to the Environmental Monitoring Program since the approval of OP R-14-004. The monitoring stations map (Exhibit E, Figure 1) has been updated to include two piezometers that were inadvertently missing from the previous map but have been monitored and reported in the annual progress reports.

7. Have the form of the financial statements, proof of insurance and surety bonds that will satisfy the criteria set forth in Ordinance 04-39, Appendix C been provided?

Staff Response: Yes, staff has reviewed the financial statements, proof of insurance and draft surety bonds and finds them to be sufficient. A summary of the proposed insurance and bonds is provided below:

- **Insurance:**
Mosaic intends to maintain their Certification of Liability Insurance policy pursuant to Appendix C.2. of the Manatee County Phosphate Mining Code (Ordinance 04-39). The existing Certificate of Liability Insurance in the amount of \$25,000,000 covers Parcel #4.
- **General Surety Bond:**
In accordance with Ordinance No. 04-39, the existing General Surety Bond (No. 08941618) will be amended to the amount of \$10,000 within 60 days of the effective date of Parcel #4 Operating Permit R-19-058. This bond amount accounts for operations circumstances that may result in disturbance during the 5-year term of this Operating Permit.
- **Reclamation Bonds:**
In accordance with Ordinance No. 04-39, the Reclamation Bond is reviewed and amended as part of the annual progress report cycle. The Reclamation Bond covers one hundred ten percent (110%) of the reclamation cost for each acre of land to be disturbed during the coming year and all land previously disturbed by mining activities and includes the costs of the wetland mitigation and the tear-down and removal of mine infrastructure. The existing bond (No. 08941617) amount is \$6,815,678.00. This bond amount also includes the fixed wetland mitigation bonding amount of \$2,000,000.00.

ATTACHMENTS:

Draft Resolution R-19-058, Operating Permit