

RESOLUTION R-03-01

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING IMC PHOSPHATE COMPANY'S EXISTING OPERATING PERMIT FOR THE FOUR CORNERS MINE TO AUTHORIZE MINING ON PARCELS 1, 2 AND 3 OF THE NORTHEAST TRACT ADDITION (1141 ACRES); AMEND THE TERMS OF THE OPERATING PERMIT TO ALLOW THE MINING OF PHOSPHATE ORE ON EIGHT NON-CONTIGUOUS PARCELS (763 ACRES) KNOWN AS THE NORTHEAST TRACT ECONOMIC REVISION AREA; TO ESTABLISH NEW OR MODIFIED CONDITIONS OF APPROVAL FOR MINING WITHIN THE NORTHEAST, JAMESON AND ALTMAN TRACTS TO ASSURE THAT THE OPERATING PERMIT WILL BE CONSISTENT WITH ORDINANCE Z-02-11, ORDINANCE 02-58, AND RESOLUTION 02-268; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County, Florida (hereinafter "Board") has approved a Development Order for a Development of Regional Impact (DRI-5), a Master Mining and Reclamation Plan, and an Operating Permit for a phosphate mine known as the Four Corners Mine, portions of which are located in Manatee County; and

WHEREAS, the IMC Phosphates Company (hereinafter "IMC") currently owns and operates the Four Corners Mine, and portions of the mine located within Manatee County are shown in Exhibits "A" through "A-4"; and

WHEREAS, IMC Phosphates Company, as successor in interest to W.R. Grace and Company, IMC Fertilizer, Inc., and IMC-Agrico, respectively, has an approved Master Mining Plan and Operating Permit for the Four Corners Phosphate Mine as described in Exhibit A; and

WHEREAS, the original Master Mining Plan and Operating Permit for Four Corners Mine in Manatee County was adopted on February 22, 1981 (SE-852). This Master Mining Plan and Operating Permit was subsequently amended by Resolutions R-84-58 (April 24, 1984 for wellfield), R-91-120 (September 5, 1991 for 170 Acres), R-92-273 (January 12, 1993, for 170 Acre Settlement), R-95-262 (October 3, 1995 for Land Exchange), R-99-277 (January 2000 for 170 ac. approval), R-02-96 (May 21, 2002 for N .E. Tract - Access Corridor); and

WHEREAS, on January 19, 2001, IMC Phosphates Company filed an Application for an Amendment to the Master Mining Plan and Operating Permit for the Phase II Northeast Tract Addition to the Four Corners Mine with the Manatee County Board of County Commissioners, pursuant to the provisions of Section 2-20 of the Manatee County Code of Laws, with five (5) subsequent Additional Information submittals; and

WHEREAS, on November 21, 2002, the Board approved Resolution R-02-268 approving the amendment to the Master Mine Plan for Parcels 1, 2, 3, the Economic Revision Areas and the existing Four Corners Mine submitted as part of the Northeast Tract Additions including the following changes:

- legal description (Exhibit A-3) for the additional Parcels 1, 2 and 3 (1141 acres), known as the Northeast Tract Additions;
- authorize the mining of phosphate ore on ±763 acres, known as the Northeast Tract Economic Revision Areas, which were previously areas of “no-mining disturbance”;
- increase the number of employees;
- increase the rate of mining and number of acres to be mined or disturbed within the Jameson and Northeast Tracts;
- extend the life of the mine (mining activity and reclamation) by 11 years, from 2018 to 2029;
- allow the potential use of conveyor systems for transportation of products and byproducts; and

WHEREAS, IMC has requested that this additional acreage be incorporated into its Operating Permit; and

WHEREAS, notice of the public hearing was published on December 2nd and 9th, 2002 in a newspaper of local circulation; and

WHEREAS, both the Board and IMC agree that each of the conditions, limitations and restrictions included in this amended Operating Permit are reasonably necessary in order to avoid impacts that might otherwise result from the activities being permitted;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida;

That the Board of County Commissioners hereby approves this amendment to IMC’s Operating Permit and the Monitoring Program for the Four Corners Mine in Manatee County, authorizing mining of Parcels 1, 2, and 3 of the N.E. Tract Additions (1141 acres, as

described in Exhibits A-3 and A-4) and the Economic Revision Areas (763 acres), and establishing new or modified conditions of approval for mining within the existing approved portions of the existing Four Corners Mine in consideration of the provisions of the Manatee County Mining and Reclamation Code, and subject to the conditions, limitations and restrictions set forth as follows:

1. **Existing Approvals.**

Resolutions R-99-277 and R-02-96 shall remain in full force and effect except as specifically modified herein.

2. **Monitoring Program**

Paragraph 4 of Resolution R-99-277 is modified in its entirety to read as follows:

The monitoring program for the Manatee tracts of the Four Corners Mine shall incorporate by reference the monitoring program attached hereto as Exhibit "C", *Monitoring Program Requirements for the Four Corners Mine Manatee County Tracts* and incorporated herein by reference. Revisions to this program must be consistent with the DRI for the Four Corners Mine and the Mining Code, and must be approved in writing by the Director.

IMC shall submit all reports, text and data required by the monitoring plan to Manatee County in a mutually acceptable electronic format. Hard copies will be supplied to Manatee County upon written request by the County.

3. **Geotechnical.**

Paragraph 5 of R-99-277 is modified in its entirety to read as follows:

IMC shall construct all new clay settling areas in accordance with Chapter 62-672 (formerly Chapter 17-9), Florida Administrative Code (F.A.C.).

4. **Recharge Ditch.**

Paragraphs 8A and 8B of R-99-277 are revised in their entireties to read as follows:

- A. IMC shall ensure the proper functioning of perimeter recharge ditches by having qualified personnel inspect the perimeter recharge ditches once each day. A report of the daily inspection shall be maintained onsite for a period of three (3) years. The reports shall be made available for examination by an authorized Department representative upon notification to IMC. IMC shall submit a quarterly summary of the inspection results to the Director.

- B. IMC shall install piezometers in the surficial aquifer at representative locations along the perimeter of the property boundary or recharge ditches adjacent to the property boundary. IMC shall determine groundwater elevations weekly, and report same to the Director quarterly.

5. Contingency Plans.

Paragraph 13 of Resolution R-99-277 is revised in its entirety to read as follows:

IMC shall continue to utilize the approved Spill Notification, Containment and Contingency Plan for F-1 & F-3A. Six months prior to submittal to FDEP of the certification of completion of construction of F-3B, F-9 and F-1R, IMC shall submit for review and express written approval of the Director a revised Spill Notification, Containment and Contingency Plan for the clay disposal activities in F-3B, F-9 and F-1R and their associated water recirculation systems. This revised plan shall provide for notification systems and procedures, as are required under Section 2-20-32(5) of the Mining Code. IMC shall update the notification lists contained in the contingency plans on an annual basis.

6. Plant Safety Plans.

Paragraph 14 of Resolution R-99-277 is revised in its entirety to read as follows:

IMC shall update the existing Spill Plan prior to certification of completion of construction of each waste clay settling pond for the Four Corners Mine, as required pursuant to Section 2-20-32(5) of the Mining Code.

7. Roadway Impacts and Improvements.

Paragraph 15 of Resolution R-99-277 is revised in its entirety to read as follows:

Transportation of product, sand tailings, overburden or reject rock by truck is contingent upon compliance with the conditions found in Section 6, Paragraph I (7), U(13) and U(14) of the Development Order. IMC shall notify the Director of any haulage of phosphate rock products that occurs from the mine in the annual report, whether or not on County-maintained roads, and shall likewise notify the Director of any spill that may occur on public right-of-way as a result of a traffic accident.

IMC will notify those carriers transporting product, overburden, reject rock, sand or sand tailings of the Florida Motor Vehicle Code requiring all loads to be tarped. Haulers shall prevent debris from leaving trucks full or empty when traveling to or from Four Corners Mine.

8. **Sale of Borrow Material.**

Paragraph 16 of Resolution R-99-277 is revised in its entirety to read as follows:

There shall be no sale of overburden, sand or sand tailings from the Four Corners Mine if those products originated in Manatee County. All overburden, sand or sand tailings originating in Manatee County shall be used for reclamation within Manatee County. Reject rock from Four Corners Mine in Manatee County may be sold and transported offsite, subject to the requirements of the Development Order (Ord. 02-58). (See Section 6, para. U(12) of the Development Order.)

In the event that any material other than phosphate rock, including but not limited to by-product (reject rock), overburden, or sand tailings excavated outside of Manatee County and processed through the Four Corners Mine beneficiation plant is to be marketed for sale and use off the mine site, IMC shall obtain written approval from the Environmental Management Department Director prior to selling any such materials. (See Section 6, para. U(13) of the Development Order.)

Trucks hauling reject rock, overburden, or sand tailings from Four Corners Mine and utilizing roadways within Manatee County will not leave the mine during the time that school buses are either picking up or delivering students. The bus schedules are available from the Supervisor of School Bus Operations. The schedules will be reviewed by Manatee County and IMC personnel and an appropriate trucking schedule will be settled upon by the parties. The schedule will be distributed to IMC operations personnel and scale operators. Before the start of a new school year or summer-school, IMC will request notice from the Supervisor of School Bus Operations and adjust the trucking schedule accordingly, with approval from the Environmental Management Department. (See Section 6, para. U(14) of the Development Order.)

9. **Roadway Crossings and Bunker Hill Road Relocation.**

Paragraph 17 of Resolution R-99-277 is revised in its entirety to read as follows:

The establishment of crossing points on County roads for purposes of access, movement of mining machinery, or mineral transport pipelines shall not be permitted without the prior written approval of the Director. The Director shall be sent copies of all crossing permit applications at the time of application for the crossing of SR 37 or CR 39.

IMC has applied to vacate that portion of Bunker Hill Road contained in Section 23 of Township 33 South, Range 21 East. Should this portion of Bunker Hill Road be vacated, it shall be relocated prior to the mining of phosphate underlying this roadway. All conditions established by the Manatee County Transportation Department for the relocation of this portion of Bunker Hill Road shall be followed. IMC shall dedicate or ensure the dedication of 84' of right-of-way for Bunker Hill Road to Manatee County, in a location approved by the Transportation Department. IMC shall also reconstruct Bunker

Hill Road to County standards for a paved rural two-lane roadway as required by the County's Transportation Department. (See Section 6, para. I(11) of the Development Order.)

10. **Setback Requirements for Existing Four Corners Mine Area (referenced in Development Order 02-58 as N. E. Tract Conditions).**

The title of Paragraph 18 of Resolution R-99-277 is revised to read as follows:

Setback Requirements for Existing Four Corners Mine Area (referenced in Development Order 02-58 as N.E. Tract Conditions).

11. **Performance Standards.**

Paragraph 20 of Resolution R-99-277 is revised in its entirety to read as follows:

20. **Performance Standards.**

All mining activities such as noise, vibration and lighting shall comply with Section 2-20-33(m) and (o) of the Mining Code and Chapter 723 of the Manatee County Land Development Code. IMC shall supply the Director with any monitoring data it collects pursuant to the requirements of the Monitoring Plan. In the case that there is any conflict between paragraph 19 of R-99-277 and this paragraph, then paragraph 19 of R-99-277 shall control.

12. Paragraph 21 of Resolution R-99-277 is revised in its entirety to read as follows:

21. Unless otherwise specified, any documents, materials, notices or other finding or submission required under the terms of the permit shall be submitted to the Director in accordance with Paragraph 25, below. IMC shall also concurrently submit to the Director any correspondence relating to the Manatee County portion of the Four Corners Mine that may be submitted to any other governmental agency.

13. **Mining Schedule.**

Paragraph 26 of Resolution R-99-277 is revised in its entirety to read as follows:

It is expressly recognized that the mining rates and schedule provided in the ADA/DRI # 251, and the application to amend the Master Mining Plan, are estimates based upon the maximum rate anticipated. Accordingly, mining rates may vary depending upon market conditions. Actual mining acreages will be documented in the annual reports submitted to the Director. In no event shall the cumulative acres mined exceed 105 percent of the value to be mined for that year and all prior years as shown in Exhibit "B", attached hereto and incorporated herein by reference, without prior Board approval, provided that the total amount at the conclusion of mining does not exceed the

total shown in Exhibit "B". Other maps shown in composite Exhibit "B" include I-1A&B, I-2A & B, and alternative maps that depict post-reclamation topography, land use, land type and location of clay settling areas. Refer to Exhibit "B", Map H-1A&B which delineates approximate location of mining by year.

14. Plant Process Improvements.

Paragraph 29 of Resolution R-99-277 is revised in its entirety to read as follows:

- A. Improvements to the Four Corners operation that implement the Best Possible Technology (BPT) requirements of the Mining Code, and the Best Management Practices (BMP) requirements of the Development Order are required. Processing plant improvements such as wet pebble grinding operation or special floatation circuits that will improve the efficiency of the operation and enable more ore to be recovered are noted as specific examples of BPT and BMP.
- B. The Director may approve the construction of these types of improvements in conjunction with the issuance of appropriate County Building Permits, provided said improvements are consistent with the DRI and this Operating Permit.
- C. The proposal to utilize an in-field pre-washer facility along the Manatee/Hillsborough County line in Section 2, Township 33 South, Range, 21 East, is approved, subject to IMC providing the County Environmental Management Department with specific construction plans and County approval of those plans.
- D. The proposal to utilize alternative technology for transport of phosphate ore (e.g., conveyor systems) is approved, subject to IMC providing the County Environmental Management Department with specific construction plans and County approval of those plans.

15. Paragraph 30 of Resolution R-99-277 is deleted.

16. Paragraph 33 of R-99-277 is amended to add a subsection C, which will read as follows:

All references in R-99-277 to IMC-Agrico shall mean IMC Phosphates Company a/k/a IMC.

17. Setbacks for N.E. Tract Additions (Parcels 1, 2, 3 & Economic Revision Area).

As set forth in Ordinance 02-58, paragraph S(9) minimum mine cut setbacks and setbacks for the perimeter recharge ditch shall be maintained as follows:

- a. 1,000 feet of a habitable structure existing at the time of initial application for Master Mining Plan approval (January 25, 2001), unless waived by affected

habitable structure owner. The waiver form shall contain requirement for the structure owner to notify any tenants;

- b. A minimum of 45 feet from an existing public right-of-way; provided that IMC demonstrates to the satisfaction of the Director that the proposed reduction will not impact the public right-of-way.
- c. 500 feet of IMC- Phosphate Company property line, unless waived by affected adjacent property owners in accordance with Section 2-20-33(b)(4)a of the Mining Code.
- d. 1,000 feet of any wetlands or groves on adjoining property not owned by the applicant unless waived by affected property owners in accordance with Section 2-20-33(b)(4)a of the Mining Code.

Nothing in this requirement shall prevent the reduction of setbacks by the BOCC pursuant to Section 2-20-33(b)(4)b of the Mining Code or the reduction of setbacks pursuant to Section 2-20-33(b)(4)a of the Mining Code, for those areas for which a reduction was requested prior to the issuance of this permit as attached hereto as Exhibit "D."

Within the above described setback areas along CR 39 and SR 37, the applicant shall construct an earthen berm, 6'-8' in height above the roadway elevation, prior to commencement of mining activities. Within the above described setback area along SR 62 where the existing buffer of planted pine trees does not exist, the applicant shall construct an earthen berm, 6'-8' in height above the roadway elevation, prior to commencement of mining activities. In areas along SR 62 where the planted buffer of pine trees remain, those trees shall not be disturbed.

18. Severance

If any section, sentence, clause, phrase or word of this Resolution is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding or invalidation shall not affect the remaining portions of this Resolution, and those remaining provisions shall be deemed to be valid as if such invalid parts had not been included herein.

19. Effective Date

This Resolution shall become effective upon adoption by the Board.

20. Expiration Date.

The expiration date of R-99-277 remains unchanged.