



# DOAR

## Development Order Amendment Report

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### **DRI #273 - WINGATE CREEK MINE S/D MANATEE COUNTY**

On September 10, 2018, Manatee County rendered Local Development Agreement (LDA) No. 17-04 to the Tampa Bay Regional Planning Council. The LDA, adopted by the Manatee County Board of County Commissioners on May 24, 2018, rescinded and supplanted the Wingate Creek Mine S/D DRI Development Order. From this point forward, the project will now be administered strictly at the local level.

#### **BACKGROUND**

On January 28, 1975, the Manatee County Board of County Commissioners granted a Development Order to Beker Phosphate for the mining of 6,065 of the project's 10,971 acres. The project was formerly known as Beker Phosphate/DRI #42.

The Development Order for DRI #42 was amended once, on February 5, 1987 (Resolution R-87-26). The primary purpose of the Amendment was to recognize a sizable land sale to Manatee County and others, resulting in a corresponding reduction in project acreage.

On October 18, 1988, the Manatee County Board of County Commissioners approved Resolution R-88-236 as a Substantial Deviation Development Order (SDDO). The project was reassigned DRI #95 and renamed Wingate Creek Mine. A chief objective of the SDDO was to settle litigation and allow the transport of phosphate rock from the facility to Port Manatee.

The previous SDDO has been amended nine times, most recently on May 1, 2008 (Ordinance No. 08-21). The numerous revisions included: changes in project ownership (from Beker Phosphate to Nu-Gulf Industries to Cargill Fertilizer and ultimately to Mosaic Fertilizer); removal of previously mined project acreage resulting; changes to the assigned haul routes for product transport; and extending the mining life, Development Order expiration and reclamation completion dates. As of the last Amendment affecting that SDDO, 1,252 of the Mine's 3,028 acres were approved for mining, most of which had already occurred.

The project has been granted further Substantial Deviation Development Order (SDDO) approval (i.e. Ordinance No. 13-01) by the Manatee County Board of County Commissioners on February 19, 2013. The latest SDDO authorized Mosaic Fertilizer LLC to expand mining operations at the existing Wingate Creek Mine in east central Manatee County. With partial frontage along the northern side of S.R. 64, the current 3,028-acre Mine site boundaries are situated approximately three miles west of Hardee County and nearly 10 miles south of Hillsborough County. Part of the Mine site's eastern boundary is shared with Mosaic's withdrawn Wingate Extension DRI.

The following constitutes the primary revisions associated with the latest SDDO:

- authorized the processing of phosphate ore from the adjacent mining area (formerly recognized as the “Wingate Extension DRI”) at the existing Wingate Creek Plant;
- allowed the exchange of sand tailings and overburden with the formerly-proposed Wingate Extension (#272) and SE Tract DRIs (#235);
- modified the waste disposal plan to allow mining of Wingate Creek Mine’s initial clay settling area and to allow the use of conventional clay settling. The current clay settling composite materials will be transported to the SE Tract DRI mine sites;
- extended the life of the Wingate Creek Mine for mining and trucking until July 2023 with reclamation continuing until December 2027 (nine year extension);
- authorized the mining of 557 acres of land previously approved for disturbance only (no mining) or no disturbance at all within the Wingate Creek Mine (see **Map 3**/Page 8 of this Report);
- approved the mining of 15 acres of land previously designated as preservation due primarily to acquisition of adjacent parcels;
- established Post-Reclamation Habitat;
- revised mining and reclamation plans to allow activities described above to be accomplished; and
- added Mosaic’s New Wales phosphate plant as a potential trucking destination.

The following table reflects the extent and location of impact (in acres) by Section/Township/Range:

SECTION	TOWNSHIP	RANGE	TO BE MINED (Acres)	TO BE DISTURBED (Acres)	NOT TO BE DISTURBED (Acres)	TOTAL (Acres)
19	34S	22E	0.0	0.2	4.5	4.7
20			128.1	98.1	52.3	278.5
21			257.4	17.5	15.3	290.2
28			563.9	35.1	41.3	640.3
29			421.8	186.5	46.1	654.4
30			22.2	68.7	28.8	119.7
31			204.6	217.5	168.4	590.5
1	35S	21E	0.0	0.0	2.5	2.5
6		22E	210.8	159.0	77.4	447.2
<b>TOTAL →</b>			<b>~1,809</b>	<b>~783</b>	<b>~437</b>	<b>~3,028</b>

On August 5, 2016, the Developer requested an amendment to Master Mining Plan Resolution R-13-001 and Operating Permit Resolution R-13-002 to modify the proposed reclamation sequence. The amendment was approved by Manatee County through a February 21, 2017 correspondence from Mr. Robert Brown, Division Manager of Manatee County Parks & Natural Resources Department.

On November 4, 2017, the Developer requested an amendment to Master Mining Plan Resolution R-13-001 and Operating Permit Resolution R-13-002 to abandon the NPDES Outfall D-001 (a.k.a. WC-001) from the Wingate Creek Mine operation. Manatee County considered the proposed Outfall abandonment to be a “non-significant amendment” and approved the proposal through a correspondence dated January 19, 2017 from Mr. Charles Hunsicker, Director of Manatee County Parks & Natural Resources Department.

## DISCUSSION

Through the previously-administered annual reporting process, it was identified/estimated that a total of 1,110 acres were mined and 1,469 acres were disturbed but not mined. Reclamation activities consisted of 1,248 acres graded/contoured, 1,175 acres grassed/mulched, trees planted on 182 acres and 1,236 acres were determined to be “effectively completed.” As of the date of the last Annual Report period (i.e. March 30, 2018), FDEP had released 272 acres and the County had released 288 acres.

The statutory references applicable to rescission/abandonment of this Development Order are stated as follows:

*“A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development-of-regional-impact development order pursuant to s. 380.06, but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651, shall be governed by the following procedures: [Subsection 380.115(1), F.S.]*

*(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b)...*

*(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed.” [The City has affirmed that “all mitigation required for Phase 1 of the DRI has been completed.”]*

In addition, Section 47(1)(a) of SB1752, enacted as part of the 2010 legislative session, reads as follows:

*The Legislature hereby reauthorizes... (a) Any exemption granted for any project for which an application for development approval has been approved or filed pursuant to s. 380.06, Florida Statutes, or for which a complete development application or rescission request has*

*been approved or is pending, and the application or rescission process is continuing in good faith, within a development that is located in an area that qualified for an exemption under s. 380.06, Florida Statutes, as amended by chapter 2009-96, Laws of Florida...*

## **RECOMMENDATION**

The rescission of the Wingate Creek Mine S/D DRI Development Order appears to be in accordance with all statutory provisions including those citations identified above.

It is recommended that the State Land Planning Agency concur with the rescission of the DRI Development Order as authorized by Manatee County for DRI #273 - Wingate Creek Mine S/D.

# GENERAL LOCATION MAP

