



FLORIDA DEPARTMENT OF Environmental Protection

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Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

MINING AND MITIGATION PROGRAM DEPARTMENT OF ENVIRONMENTAL PROTECTION STATE OF FLORIDA

In the Matter of an
Application for Variance, by:

APPLICANT:

Mosaic Fertilizer, LLC
13830 Circa Crossing Dr.
Lithia, FL 33547

PROJECT NAME:

Payne Creek Mine
Variance Application MOS-PC-VA (2018)
Timing of Reclamation

AGENT:

Ms. Kay Bourque
Director, Mine Services
Mosaic Fertilizer, LLC
13830 Circa Crossing Dr.
Lithia, FL 33547

FILE NO.: MMR_139109-054-EV-VR

COUNTIES: Polk and Hardee

FINAL ORDER

BY THE DEPARTMENT:

The Department of Environmental Protection (Department) received a petition (File No. 0139109-054-EV-VR) from Mosaic Fertilizer, L.L.C. (Mosaic), 13830 Circa Crossing Dr., Lithia, FL 33547, seeking a variance under paragraph 378.212(1)(b), Florida Statutes (F.S.), from the reclamation timing requirements defined in subsection 378.209(1), F.S., and Rule 62C-16.0051(12)(b) Florida Administrative Code (F.A.C.), for the Payne Creek Mine in Polk and Hardee Counties. The variance is requested for a five-year period ending June 1, 2023.

I. DESCRIPTION OF THE PROPOSED ACTIVITY/BASIS FOR ISSUANCE

On March 22, 2018, Mosaic filed an application with the Department's Mining and Mitigation Program, seeking a variance, pursuant to section 378.212, F.S., to the timing of reclamation required by subsection 378.209(1), F.S. and Rule 62C-16.0051(12)(b),

F.A.C., for the Payne Creek Mine in Polk and Hardee Counties. The application was reviewed by Department staff and interested parties. The file has been designated as MMR_139109-054-EV-VR, MOS-PC-VA (2018), OGC 18-1130.

On February 9, 2018, the Department approved a modification to the conceptual plan for Mosaic Fertilizer, L.L.C. (Mosaic), Payne Creek Mine, MOS-PC-CPI, pursuant to Chapters 211, Part II, and 378, Part III, F.S., and Chapter 62C-16, F.A.C. MOS-PC-CPI is the current approved conceptual plan for the mine. On June 1, 2006, Mosaic initiated a temporary shutdown of the Payne Creek Mine. Draglines ceased mining and the Fort Green beneficiation plant ceased operations. On June 9, 2009, the Department issued a Timing of Reclamation variance designated as File No.0139109-010-EV-VR, MOS-PC-VA(2008). The variance expired June 1, 2018; however, the surety bond is still in place.

Rule 62C-16.0051(12)(b)2, F.A.C., requires that contouring of all acres mined in a given calendar year be completed no later than 18 months after that calendar year or 18 months after an area is capable of being contoured when additional mining operations, such as waste disposal, occur. Subsection 378.209(1), F.S. and Rule 62C-16.0051(12)(b)4, F.A.C., require that reclamation and restoration be completed within two years of the actual completion of mining operations. Many of the areas that were the subject of the 2008 variance have been reclaimed and restored. However, 586 acres will not be meeting the two-year period specified in Chapter 62C-16, F.A.C. Mosaic will not be able to complete reclamation of all mined or disturbed areas within the time limits specified in Chapter 62C-16, F.A.C. Mosaic seeks approval of a variance to the timing of the completion of reclamation activities.

Some of the un-reclaimed areas cannot be reclaimed at this time because they are in mining operations. The mine water recirculation system is in active mining operations, managing and treating stormwater. A number of access corridors are in place and are needed for mining operations and inspection and maintenance of the mine and water recirculation system. Waste disposal, including pumping sand from a stockpile (no clay has been pumped because the plant is shut down) and active clay settling area construction are also included as mining operations. The variance and associated financial security is not required for areas in active mining operations.

For the 2008 variance, File No.0139109-010-EV-VR, MOS-PC-VA(2008), Mosaic has posted financial security in the amount of \$129,058.81. The financial security required per acre is based on Rule 62C-16.0075(2), F.A.C. For mined areas where contouring is not complete, the security is at a rate of \$13,056 per acre. For clay settling areas, the security is at a rate of \$8,225 per acre. For disturbed or cleared lands, the security is at a rate of \$1,697 per acre. Based on the 2017 acreage and values, Mosaic has posted security in the amount of \$12,434 for mined areas where contouring is not complete and \$1,616 for disturbed/cleared areas. The total amount of financial security to be posted is \$4,696,799.19, increasing the total amount of financial security to \$4,825,858. The variance, if granted by the Department, will be subject to conditions to ensure reclamation activities are completed in accordance with the approved conceptual plan.

The chart below details the reclamation areas, number of acres to be reclaimed and the amount of security required.

Table A: FINANCIAL SECURITY REQUIREMENTS

| <u>CATEGORY</u> | <u>RECLAMATION AREA</u> | <u>ACRES</u> |
|---|-------------------------|--------------------|
| Mined, No Work | PC-HB(3) | 8 |
| TOTAL MINED, NO WORK ACRES | | 8 |
| SECURITY PER ACRE | | \$13,056 |
| TOTAL SECURITY - MINED, NO WORK | | \$104,448 |
| Clay Settling Areas | PC-HB(3)) PC-SP(9) | 562 11 |
| TOTAL CLAY SETTling AREA ACRES | | 573 |
| SECURITY PER ACRE | | \$8,225 |
| TOTAL SECURITY - CLAY SETTling AREAS | | \$4,712,925 |
| Disturbed or Cleared Lands | PC-HB(3) | 5 |
| TOTAL DISTURBED/CLEARED ACRES | | 5 |
| SECURITY PER ACRE | | \$1,697 |
| TOTAL SECURITY – DISTURBED/CLEARED AREAS | | \$8,485 |
| TOTAL SECURITY REQUIRED | | \$4,825,858 |

The variance request complies with the standards and criteria of Chapters 211, Part II, and 378, Part III, F.S., and Chapter 62C-16, F.A.C. This approval does not warrant the suitability of subject lands for any current or proposed use and does not constitute a statement or admission concerning ownership of any interest in the subject lands.

The Petitioner and interested parties having been advised of their rights under Chapter 120, F.S. and having failed or declined to file a Petition, pursuant to sections 120.569 and 120.57, F.S., and hereby deemed to have waived those rights. Acceptance of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof.

It is therefore:

ORDERED by the State of Florida, Department of Environmental Protection, that the Petition of Mosaic requesting a variance, be and is hereby granted, subject to the following Specific Conditions:


1. Mosaic Fertilizer, L.L.C., shall post security on all lands mined after July 1, 1975, that have not been reclaimed through the revegetation stage and are not under active mining operations. The initial amount of this security shall be equal to \$13,056 per acre for 8 acres of mined-out lands where contouring is not complete, \$8,225 per acre for 573 acres of clay settling areas, and \$1,697 per acre for 5 acres of disturbed or cleared lands. The security shall be posted within 60 days of the effective date of the Final Order, and shall be in the form of cash or cash equivalent deposited in an Escrow Account, a Letter of Credit or a Performance Bond. Escrow Agreements, Letters of Credit, or Bonds shall be approved by the Department.
2. A variance status report shall be submitted by **June 1** of each year describing work done on the site during the previous year. The acres contoured, acres revegetated, acres in mining operations, and remaining acres requiring security shall be delineated on tables and aerials submitted with the status report. An annual site inspection will be performed by Department staff to confirm the information submitted with the annual status reports.
3. The amount of security required shall be updated on an annual basis. The posted security may be reduced for individual reclamation parcels following the successful completion of approved reclamation through the initial revegetation stage, or once a reclamation parcel has been continuously in approved, active mining operations for a period of three (3) months. The security amount shall be adjusted annually for inflation by five percent (5%) each year pursuant to rule 62C-16.0075(2)(e), F.A.C. Adjustment to the surety amount shall be effective July 1st of each year.
4. Forfeiture of the posted security shall not operate to relieve Mosaic Fertilizer, L.L.C. of its responsibility to reclaim all mandatory lands mined or disturbed at the Payne Creek Mine.
5. Unless mining operations are initiated by **June 1, 2023**, within each of the un-reclaimed parcels listed in Table A, or unless a different schedule is approved in writing by the Department, reclamation within each of the parcels listed above shall begin by **June 1, 2023**. Failure to complete reclamation through revegetation by **June 1, 2025**, or by a later date approved in writing by the Department, or within two (2) years of the completion of mining operations, whichever is applicable, will result in forfeiture of the security.

Any party to this Order has the right to seek judicial review of the Order, pursuant to section 120.68, F.S., by the filing of a Notice of Appeal, pursuant to Rule 9.110 of the

Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

**STATE OF FLORIDA, DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



Orlando E. Rivera, PWS, CERP
Program Administrator
Mining and Mitigation Program

CERTIFICATE OF SERVICE

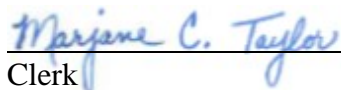
The undersigned duly designated deputy clerk hereby certifies that this permit and all copies were sent on the filing date below to the following listed persons:

Alissa Powers – Manatee Co. Natural Resource Dept. – Alissa.Powers@mymanatee.org
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Amelia Savage – Hopping, Green & Sams, P.A. – amelias@hgslaw.com
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Beth Niece – Mosaic Fertilizer, LLC – Bethany.Niec@mosaicco.com
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Mining and Mitigation Program File

FILING AND ACKNOWLEDGMENT

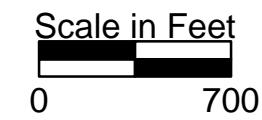
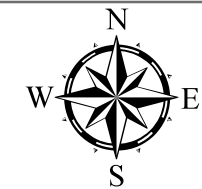
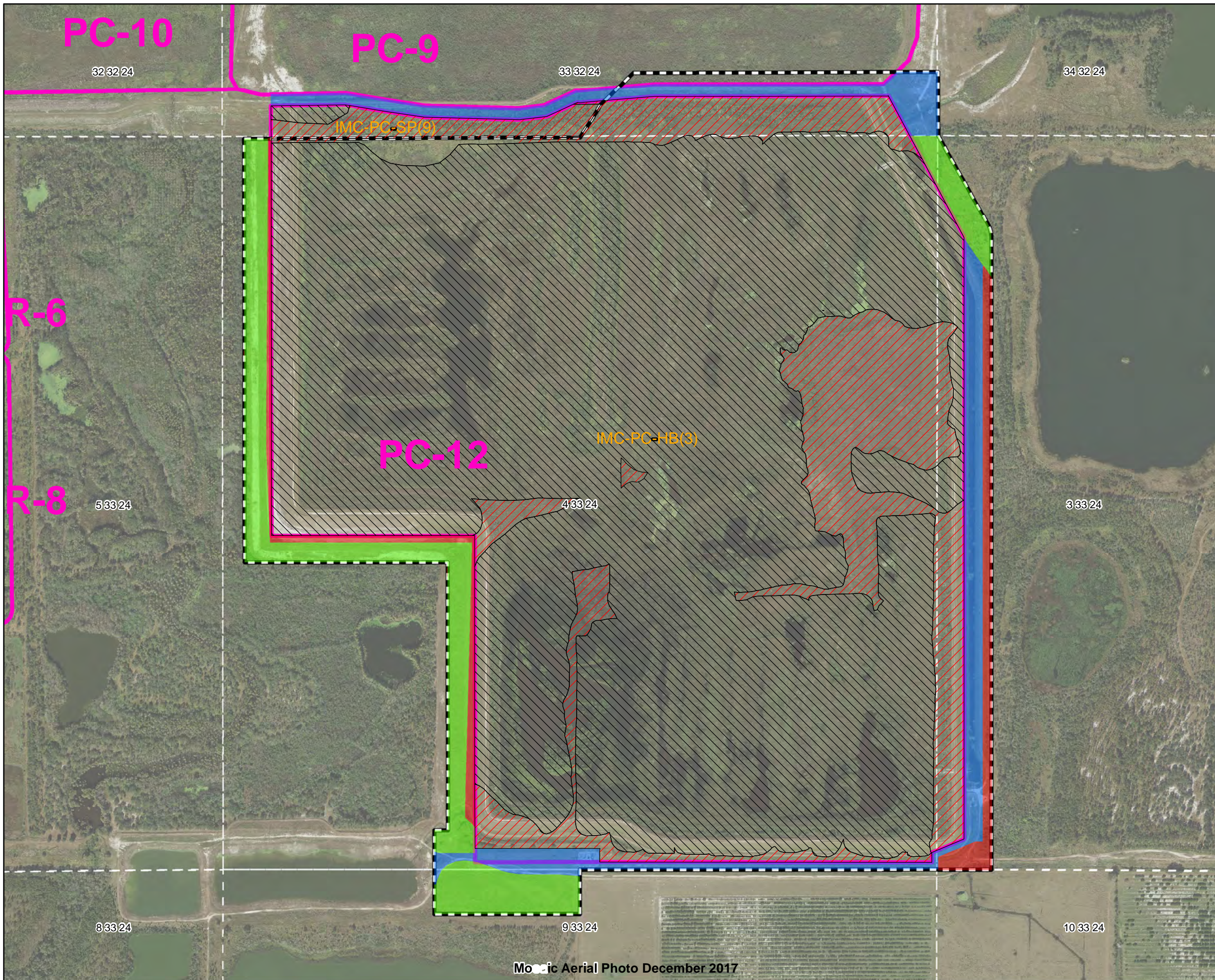
FILED, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.


Clerk









8/24/2018
Date

ATTACHMENTS

2018 Payne Creek Variance Renewal Map



Legend

-  Disturbed
-  Mined
-  Not Reclaimed 13 ac.
-  OMO 35 ac.
-  Reclaimed (Previously Reported)
-  LRU Boundaries
-  PC-12 Clay Setting Area - 573 ac.
-  Section Lines

RECEIVED
05-24-2018
Mining & Mitigation Program
Bartow, FL

MMR_139109-054-EV-VR



**IMC-PC-HB(3) and
IMC-PC-SP(9)**

**2018 Payne Creek
Variance Renewal**

User: brn date: 5/17/2013 rev ymz/jwh 5/17/2017 djr 20180302 rev ymz 5/1/18
Path: G:\projects\2018\2018_0018\maps\IMC_PC_HB3.mxd