



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
701 SAN MARCO BOULEVARD
JACKSONVILLE, FLORIDA 32207-8915

July 22, 2019

Regulatory Division
West Branch
Mining Team

PUBLIC NOTICE

Permit Application No. SAJ-2019-00241 (SP-JPF)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) as described below:

APPLICANT: Mosaic Fertilizer, LLC
13830 Circa Crossing Drive
Lithia, FL 33547

WATERWAY AND LOCATION: The project would affect waters of the United States associated with Little Charlie Creek, Charlie Creek, and Lake Dale Branch, which are all tributaries of the Peace River (HUC 03100101). The project site is located directly east of Mosaic's South Fort Meade – Hardee County phosphate mine, approximately midway between the Polk-Hardee County line to the north and State Road 64 to the south, in parts of Sections 8, 16, 17, 18, 19, 20, 21, 22, 24, 26, 27 and all of Section 23, Township 33, Range 26, Hardee County, Florida.

Directions to the site are as follows: From the intersection of U.S. 17 and Main Street in Wauchula, Florida, travel east on Main Street approximately four miles; then turn north onto New Holland Town Road; then travel approximately 2.6 miles to the project site.

APPROXIMATE CENTRAL COORDINATES: Latitude 27.594597
Longitude -81.712991

PROJECT PURPOSE:

Basic: To mine phosphate ore

Overall: To extract phosphate ore from reserves located within a practicable pumping distance of the existing South Fort Meade separation/beneficiation plant and supporting infrastructure in order to continue operation of that beneficiation plant at historical production rates

EXISTING CONDITIONS: The 4280-acre site is predominantly grazing land and other agricultural land uses – 44% improved pasture (FLUCCS 211), 28% citrus groves (FLUCCS 221), 6% row and field crops (FLUCCS 214 and 215), and approximately 8%

other non-native or disturbed uses. Native habitat covers approximately 14% of the site, including upland forests (FLUCCS 400) on 3% and wetlands (FLUCCS 600) on 11%.

The wetlands onsite include 194 acres of mixed wetland hardwoods forest (FLUCCS 617), 244.3 freshwater marsh (FLUCCS 641), and 16.5 acres of wet prairie (FLUCCS 643). There are 100.9 acres of other waters, including ditched streams, manmade ditches, and manmade ponds. The applicant states that approximately 496 acres of these aquatic resources are waters of the United States, including 401.5 acres of wetlands and 94.6 acres of other waters.

PROPOSED WORK: The applicant seeks authorization to discharge fill material into waters of the United States associated with the mining of phosphate ore at a site known as South Fort Meade – Hardee County Eastern Reserves (Eastern Reserves). The applicant proposes a total of 3905 acres of disturbance – 3405 acres of mining and 552 acres of mining-related activities. Proposed impacts to waters of the United States total 366 acres, including 276.5 acres of wetlands (94.7 acres of forested wetlands and 181.8 acres of herbaceous wetlands) and 89.1 acres of other waters. The applicant also proposes 5538 linear feet of impacts to natural and ditched ephemeral streams.

AVOIDANCE AND MINIMIZATION INFORMATION – The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

The applicant states that alternative sites or onsite mining plans either do not meet the overall project purpose, or have greater environmental impact than the preferred alternative. The applicant further states that they have designed their proposed mine plan to minimize impacts to waters of the United States while still meeting the purpose and need for the project.

The applicant prioritized the avoidance of forested wetlands, especially those with a higher value using the UMAM functional assessment methodology; herbaceous wetlands with a higher UMAM value; intermittent streams; and areas that provide connectivity to offsite systems.

Additional impact minimization measures include buffers and ditch and berm recharge systems around avoided areas, water control measures, and water conservation and recycling measures.

COMPENSATORY MITIGATION – The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

The applicant proposes to purchase in-kind mitigation bank credits from an approved mitigation bank to offset the loss of function associated with the wetland impacts, and to offset the stream impacts with in-kind, permittee-responsible mitigation on Mosaic property near the project site.

CULTURAL RESOURCES:

The Corps is aware of cultural resources within or in close proximity of the Eastern Reserves permit area, based on a cultural resource assessment survey provided by the applicant. The applicant also provided a copy of a July 25, 2018 letter from the Florida Division of Historical Resources/State Historic Preservation Officer (SHPO) which concurred with the applicant's 'no effect' determination (DHR Project File No. 2018-3149). The SHPO further noted that the letter did not constitute a review under Section 106 of the National Historic Preservation Act, however.

By copy of this public notice, the Corps is providing information for review. Our final determination relative to historic resource impacts is subject to review by and coordination with the State Historic Preservation Officer and those federally recognized tribes with concerns in Florida and the Permit Area.

ENDANGERED SPECIES:

The project site is within the consultation areas for the Florida grasshopper sparrow and the Florida scrub jay, however the site does not contain suitable habitat for either species. The applicant did not observe any Florida grasshopper sparrows or scrub jays during listed species surveys or other field work. The project site is approximately eight miles west of the consultation area for the Florida bonneted bat. The applicant performed acoustic surveys, and did not record any Florida bonneted bats within the project area. The project site is approximately 40 miles north of the Florida panther focus area, and approximately 30 miles from the ends of the west and east dispersal pathways. The applicant did not observe any Florida panthers onsite during listed species surveys or other field work. It is unlikely that any West Indian manatees, smalltooth sawfish, or sea turtles would be able access the streams or other waterways onsite, however they are present downstream in the Peace River and Charlotte Harbor.

The project site is within the 18.6-mile radius Core Foraging Area of a wood stork (threatened) colony and contains suitable foraging habitat, and the applicant observed wood storks onsite during field surveys. The applicant proposes to provide habitat compensation by purchasing mitigation credits at an approved mitigation bank. The applicant states that the foraging prey base enhancements associated with the habitat compensation offset the losses associated with the proposed activities.

The project site is within the consultation area for the crested caracara (threatened). The site has suitable habitat, and the applicant reported the presence of active or potentially active nests within and in close proximity to the site. The site also contains suitable habitat for the eastern indigo snake, which likely includes more than 25 gopher tortoise burrows, however the applicant did not observe any eastern indigo snakes during listed species surveys.

The project site has suitable habitat for the eastern black rail.

The Corps has determined that the project will have no effect on the Florida grasshopper sparrow, Florida bonneted bat, or Florida panther, based on a lack of occurrence or habitat onsite, or a lack of both. No further consultation is necessary, however the Corps will provide information about these three species in a biological assessment to the U.S. Fish and Wildlife Service (USFWS). Based on prior reviews of similar proposed activities in the Peace River watershed and their predicted direct, indirect, and cumulative effects on water quantity and quality downstream, the Corps has also determined that the project will have no effect on the West Indian manatee, smalltooth sawfish, and any sea turtles; no further consultation is necessary.

Using the May 2010 effect determination key for the wood stork (A-B-C-E), the Corps has programmatic concurrence that the project may affect but is not likely to adversely affect the wood stork; no further consultation is necessary.

Using the August 2017 effect determination key for the eastern indigo snake (A-B-C), the Corps has determined that the project may affect the eastern indigo snake. Due to the expected direct impacts to caracara foraging habitat and indirect impacts to nesting areas, the Corps has determined that the project may affect the caracara. For both species, the Corps will request initiation of formal consultation with the USFWS pursuant to Section 7 of the Endangered Species Act by separate letter.

On 9 October 2018, the USFWS published a notice in the Federal Register proposing to list the eastern black rail as a threatened species. Section 7(a)(4) of the Endangered Species Act states “Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species.”

The Eastern Reserves project is within the range of the eastern black rail, and the site has suitable habitat (herbaceous marshes) for the species. However, after consideration of the proposed avoidance and preservation of herbaceous wetlands onsite, with adjacent buffers, the proposed compensatory mitigation as described above, and the expected FDEP-required reclamation of additional herbaceous wetland acreage, the Corps has determined that the Eastern Reserves project will not jeopardize the continued existence of the eastern black rail. The Corps notes that the USFWS did not propose to designate critical habitat for the eastern black rail at this time. Based on this information, the Corps finds that the requirements of Section 7 of the Endangered Species Act for the eastern black rail are fulfilled for this project; no further action is necessary. If after reviewing available information the USFWS subsequently determines that the proposed action is likely to jeopardize the eastern black rail, the USFWS can request a conference to address those impacts.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The Corps has not verified the jurisdictional line.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Mining Team, 10117 Princess Palm Avenue, Suite 120, Tampa, FL 33610-8302 within 30 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, John Fellows, by electronic mail at john.p.fellows@usace.army.mil (preferred method); in writing at the Mining Team, 10117 Princess Palm Avenue, Suite 120, Tampa, FL 33610-8302; or by telephone at (813)769-7070.

IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative

impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.





















