

ORDINANCE NO. 00-49

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, RENDERING A DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, ON AN APPLICATION FOR DEVELOPMENT APPROVAL (ADA) FOR A SUBSTANTIAL DEVIATION TO AN EXISTING DEVELOPMENT OF REGIONAL IMPACT (DRI) FILED BY IMC PHOSPHATES COMPANY (IMC) FOR THE FOUR CORNERS MINE SOUTHEAST TRACT ADDITION DRI; PROVIDING FOR DEVELOPMENT RIGHTS, CONDITIONS, AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, IMC Phosphates Company, as successor in interest to W. R. Grace and Company, IMC Fertilizer, Inc., and IMC-Agrico, respectively, possesses a Development of Regional Impact (DRI) for the Four Corners phosphate mine located in both Hillsborough and Manatee Counties; and

WHEREAS, the amended DRI Development Order for that portion of the Four Corners phosphate mine in Manatee County is Ordinance 95-41, as amended by Ordinance 96-45; and

WHEREAS, on October 7, 1999, IMC Phosphates Company filed a Substantial Deviation Application for a Substantial Deviation to their approved DRI with the Manatee County Board of County Commissioners, pursuant to the provisions of Section 380.06, Florida Statutes; and

WHEREAS, the Tampa Bay Regional Planning Council, Florida Department of Community Affairs, Central Florida Regional Planning Council, and Hardee County were provided copies of the Southeast Tract ADA* by IMC Phosphates Company and were, therefore, afforded the opportunity to comment on the proposed change; and

WHEREAS, the Planning Commission has reviewed the Southeast Tract ADA* and has filed a recommendation on that application with the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners of Manatee County has on November 28, 2000, December 12, 2000, December 19, 2000 and held a duly noticed public hearing on the Southeast Tract ADA* for the Four Corners Mine DRI, and has solicited, received, and considered reports, comments, and recommendations from interested citizens, County staff, government agencies, and the applicant; and

WHEREAS, the described Project lies within the unincorporated area of Manatee County; and

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WHEREAS, the County and IMC Phosphates Company have agreed for administrative purposes that this acreage shall be governed by its own Development Order; and

WHEREAS, the Board of County Commissioners is the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA THAT THE BOARD FINDS THAT: THE DEVELOPMENT ORDER FOR THE FOUR CORNERS MINE SOUTHEAST TRACT ADDITION SUBSTANTIAL DEVIATION, SUBJECT TO THE CONDITIONS CONTAINED IN THIS ORDER, ADEQUATELY ADDRESSES THE IMPACT OF THE PROPOSED CHANGES.

SECTION 1. NEW DEVELOPMENT ORDER RENDERED AND NO AMENDMENT OF PRIOR DEVELOPMENT ORDERS

This Ordinance establishes a new Development Order for the Four Corners Mine Southeast Tract Addition*.

The Development Order for the Four Corners Mine Southeast Tract Addition* substantial deviation, subject to the conditions contained in this order, adequately addresses the impact of the proposed changes.

The original Development Order for Four Corners Mine in Manatee County was adopted on December 27, 1977. This Development Order was amended in its entirety by Ordinance 91-62 and subsequently amended by Ordinances 92-64, 95-41, and 96-45. Ordinance 95-41, as amended by Ordinance 96-45 is not amended or superseded by this Ordinance and remains in full force and effect for those areas legally described in Section 7 of Ordinance 95-41.

SECTION 2: FINDINGS OF FACT.

The Board of County Commissioners, after considering the testimony, evidence, Application for Development Approval, the recommendation and findings of the Planning Commission, and all other matters presented at the public hearing, hereby makes the following Findings of Fact:

- A. All **"WHEREAS"** clauses preceding Section 1 of this Ordinance are adopted as findings of fact.
- B. On October 7, 1999, IMC Phosphates Company submitted an Application for Development Approval (ADA) for a Substantial Deviation to a Development of

Regional Impact (DRI), known as the Four Corners Mine Southeast Tract Addition* to Manatee County, TBRPC, and DCA, which included the following elements:

1. Addition of 2,508 acres of land in Section 36 in Township 33S, Range 22E, and Sections 1, 2, 11, 12, 13, and 14 in Township 34S, Range 22E for mining.
 2. clearing of the land in preparation for mining activities.
 3. excavate the phosphate ore in the conventional opencast strip-mining technique (using draglines) that is used throughout the central Florida phosphate region.
 4. transportation of the excavated ore in a slurry form through pipelines to one of two IMC owned off-site beneficiation plants (Four Corners or Ft. Green). The beneficiation plant separates the phosphate rock from sand, overburden, and clay by washing, screening, and flotation.
 5. backfill the mined land with sand, overburden, or clay.
 6. reclaim the land for future beneficial use by re-contouring and re-vegetation.
- C. The following information, commitments, and impact mitigating provisions submitted by IMC Phosphates Company are hereby incorporated in this Development Order by reference:
1. Substantial Deviation (ADA): received October 7, 1999.
 2. Substantial Deviation (ADA) First sufficiency response: received February 29, 2000.
 3. Substantial Deviation (ADA) Second sufficiency response: received July 27, 2000.
 4. Additional information in response to Manatee County's third round of sufficiency comments: received October 23, 2000.
 5. Additional information to withdraw a portion of the application: received November 1, 2000.
 6. Additional information to increase the acreage of wetlands reclaimed: received December 6, 2000.
- D. In construing and enforcing the provisions of the documents incorporated in this Development Order by 1.C. above, the following shall apply:
1. The Development Order shall control over any incorporated document in conflict or inconsistent with its terms.
 2. The most recent response of the IMC Phosphates Company in the referenced document shall control over previous response, whenever there is a conflict, otherwise the responses shall be considered cumulative.
 3. Any information, commitments, or impact mitigating provisions in the above-referenced documents which are inconsistent with the specific conditions set

forth in this ordinance and the exhibits hereto, shall be deemed superseded and inapplicable.

- E. The real property, which is the subject of this application is entitled the Four Corners Mine Southeast Tract Addition*, consists of approximately 2,508 acres, and is located within unincorporated Manatee County and is described in Section 7 of this Development Order.
- F. The owners of the Southeast Tract Addition* property, which IMC Phosphates Company intends to mine are IMC Phosphates Company and FP One and FP Two Corporations (Lessor to IMC Phosphates Company).
- G. The authorized agent for IMC Phosphates Company is Robert H. Kinsey, Director of Operations Support, P.O. Box 2000, Mulberry Florida 33860.
- H. A comprehensive review of the impact generated by the addition of the Southeast Tract Addition* to the DRI has been conducted by the departments of Manatee County and TBRPC.
- I. The Developer* for purposes of this application is IMC Phosphates Company.
- J. The Project is not in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.
- K. On July 28, 1997, a pre-application meeting was held for the proposed Substantial Deviation DRI, at which time the Tampa Bay Regional Planning Council agreed to the elimination of standard ADA questions 10, 16, 18, 20, 22 through 29, and 31 through 38.
- L. On August 25, 2000, the Tampa Bay Regional Planning Council notified Manatee County that the Substantial Deviation ADA* for the Southeast Tract Addition* was sufficient and directed the County to set the local public hearing dates, pursuant to Subsection 380.06(11)(d), Florida Statutes. Manatee County scheduled the public hearings for November 9, 2000 (Planning Commission) and November 28, 2000 (Board of County Commissioners).
- M. On October 9, 2000, the Tampa Bay Regional Planning Council held a duly noticed public meeting on the Substantial Deviation ADA*, received all pertinent testimony and evidence, and pursuant to Section 380.06(12), Florida Statutes, issued a report recommending approval of the proposed Substantial Deviation.
- N. On November 9, 2000, the Manatee County Planning Commission held a duly noticed public hearing on the Substantial Deviation ADA* for the Southeast Tract Addition*,

received all pertinent testimony and evidence, including the Tampa Bay Planning Council report and recommendations, and recommended approval of the Substantial Deviation ADA* as conditioned herein.

- O. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the Southeast Tract Addition* to the DRI and the Application for Official Zoning Atlas Amendment as it relates to the real property described in Section 7 of this Ordinance.
- P. The proposed expansion of Four Corners DRI is an increase of over five percent (5%) of the existing phosphate mines acreage and constitutes a Substantial Deviation pursuant to Section 380.06(19)(b)(5), Florida Statutes.
- Q. On November 28, 2000, December 12, 2000, and December 19, 2000 the Board of County Commissioners held a public hearing regarding the Application for Development Approval for the Southeast Tract Addition* to the DRI, in accordance with the requirements of the Manatee County Land Development Code (Ordinance 90-01, as amended), the Manatee County Comprehensive Plan (Ordinance 89-01, as amended), the Manatee County Code of Laws Chapter 2-20 (the Mining Ordinance*), and has further considered the testimony, comments, and information received at the public hearing.
- R. The proposed Southeast Tract Addition* to the approved DRI regarding the property described in Section 7 herein is found to be consistent with the requirements of The Manatee County Comprehensive Plan, The Manatee County Land Development Code, and the Development conditions specified in Section 6 below.

SECTION 3. CONCLUSIONS OF LAW

Based upon the previous findings of fact and the following conditions of the Development Order approval, the Board of County Commissioners of Manatee County concluded that:

- A. The development of the Southeast Tract Addition* is consistent with the local land development regulations, the State Comprehensive Plan, the Comprehensive Regional Policy Plan, and the 2020 Manatee County Comprehensive Plan (Ordinance 89-01, as amended).
- B. The development of the Southeast Tract Addition* is consistent with the report and recommendations of the TBRPC issued on October 9, 2000, as conditioned herein.
- C. These proceedings have been duly conducted pursuant to applicable laws and regulations, and based upon the record in these proceedings, the Developer* is

authorized to conduct development as described herein, subject to the conditions, restrictions, and limitations set forth below.

- D. The review by the County, TBRPC, other participating agencies, and interested citizens reveals that impacts of the development amendments described in the ADA* for the Southeast Tract Addition* are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes, within the terms and conditions of this Development Order. To the extent that the ADA* is inconsistent with the terms and conditions of this Development Order, the terms and conditions of this Development Order shall prevail.

SECTION 4: DEVELOPMENT COMPONENTS

The Application for Development Approval entitled Four Corners Mine Southeast Tract Addition, is hereby approved subject to the following conditions:

- A. The Southeast Tract Addition* areas (parcels 5 & 6) is approved for mining and reclamation as shown in the ADA*, as conditioned and limited herein.
- B. The mining of the ditched portions in the upper reaches of the West Fork of Horse Creek floodplain in Sections 11 and 12, and the reclamation to a restored system is approved.
- C. The alternate flowway shall be constructed as described in the ADA*, as shown on Revised Map H-1 (Attached as Exhibit A), and pursuant to the terms of this Development Order and all required state and federal permits.
- D. Plans for the transportation of ore excavated from the Southeast Tract area to either the Fort Green Mine's beneficiation facilities or to Four Corners Mine's beneficiation facilities is approved. Transportation of sand and clay from either of these mines' beneficiation facilities to the Southeast Tract Addition*, and use of such sand and clay in reclamation of the Southeast Tract Addition* area is similarly approved. Transportation of ore, sand, and clay is approved on the basis that all transportation of these products will occur within the boundaries of the Four Corners Mine*, the Ft. Green Mine, and the Southeast Tract Addition*.
- E. Mined land will be reclaimed in accordance with the Master Mine Plan, Operating Permit, terms of this Development Order, and the Reclamation Schedule (attached as Exhibit I). The Reclamation Schedule requires completion of reclamation within 3 years of completion of all mining activities within a program or logical reclamation unit area that allows for reclamation of a sub-basin system rather than a partial system. For clay settling areas, reclamation commences after the surface area is ditched and drained,

which takes approximately 4 years. Degraded habitats present in the pre-mining condition will be reclaimed to superior quality habitats, as set forth on page 2AI - 34 of the second sufficiency response and Table 12-1 of the additional information revised on December 6, 2000. Preservation areas will be retained to promote the protection of the regional wildlife and plant species and will act as suitable colonization sources for the reclaimed habitats. Reclaimed uplands are designed to have a connection to undisturbed areas so that they will have a way to repopulate, as shown on Map 35G-2 (Attached as Exhibit H). Relocation and restocking efforts as appropriate and approved by the various agencies will be conducted and will speed up the colonization of the reclaimed habitats. All wetland losses within the Four Corners Mine Southeast Tract Addition* shall require mitigation in accordance with the specific mitigation plan described in the ADA* and shown in Table 13-1

SECTION 5: DEFINITIONS

Note: An asterisk (*) denotes that the word is defined. The definitions contained in Chapter 380, Florida Statutes, shall apply to this Development Order, in addition to those listed below.

- A. "Acceptable Level of Service*" shall be Level of Service D, peak hour on urban roads, and Level of Service C, peak hour on rural roads, or as shown on Table 5.1 of the 2020 Manatee County Comprehensive Plan, whichever is more restrictive. Acceptable Level of Service for links and intersections in Polk County, Florida, shall mean Level of Service as set for the affected roadways in the Polk County Comprehensive Plan.
- B. "Application for Development Approval*" and "ADA*" shall mean the IMC Phosphate Company's Development of Regional Impact (DRI) Application for Development Approval received October 7, 1999; two sufficiency responses received February 29, 2000 and July 27, 2000, respectively; additional information received on October 23, 2000, November 1, 2000, and December 6, 2000 respectively; and all information submitted by the Developer* in response to the sufficiency reviews of state, regional, and local agencies.
- C. "Best Management Practices*" shall mean practices that are technologically and economically practicable and most beneficial in preventing or reducing adverse impacts from mining activities. For more specific information and examples, see the same definition in the 2020 Manatee County Comprehensive Plan.
- D. "Conservation Areas*" shall mean those habitats as illustrated in Figure 13-1 (Attached as Exhibit B) which will be preserved throughout mining or recreated post-mining on Parcels 5 & 6, wetlands and uplands.

- E. "Developer*" shall mean IMC Phosphates Company (formerly IMC-Agrico Corporation or IMC Fertilizer, Inc.), FP One Corporation, and FP Two Corporation, their assigns, agents, and successors in interest as to the Four Corners Mine Southeast Tract Addition*.
- F. "Development Approval*" shall mean any approval for this development granted through this DRI Development Order.
- G. "Down-zone*" shall refer only to changes in zoning, land use, or development regulations that decrease the development rights approved by this order, and nothing in this paragraph shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the developer by this order. The inclusion of this section is not to be construed as evidencing any present or foreseeable intent on the part of the County to down-zone or alter the density of the Development, but is included herein to comply with Paragraph 380.06(15)(c)3, F.S.
- H. "Four Corners Mine*" shall mean all portions of the Four Corners Mine* which are located in Manatee County, as described in Section 7 of Ordinance 95-41, and excluding those portions of the mine located in Hillsborough and Polk Counties.
- I. "Four Corners Mine Southeast Tract Addition*" shall mean that portion of the Four Corners Mine in Manatee County located in Section 36 in Township 33S, Range 22E, and Sections 1, 2, 11, 12, 13, and 14 in Township 34S, Range 22E, as described in Section 7 of this Ordinance, which is being approved with this Development Order, and is illustrated on Map A-2 dated November 1, 2000 and attached as Exhibit C to this Development Order
- J. "Master Mining and Reclamation Plan*" shall mean a description of proposed mining activities over the life of the mine, so as to allow overall review of applicant's mining activities.
- K. "Mining Ordinance*" shall mean Section 2-20 of the Manatee County Code of Laws, also referenced as Ordinance 81-22, as amended.
- L. "Preservation Areas*" shall mean all areas shown on Map H-3 (attached Exhibit F dated November 1, 2000) as areas of No Mining Disturbance.
- M. "Reclamation Plan*" shall mean the Master Mine Plan for the "Four Corners Mine Southeast Tract Addition*" as shown in the ADA*.
- N. "Southeast Tract Addition*", "Southeast Tract*", or "SE Tract*" shall mean the 2,508 acre Addition* to the Four Corners Mine DRI #5, located in Section 36 in Township

33S, Range 22E, and Sections 1, 2, 11, 12, 13, and 14 in Township 34S, Range 22E as described in Section 7 of this Development Order.

- O. "25-Year Floodplain*" shall mean the area shown on Map C-3 (Attached as Exhibit D) in the ADA* for Southeast Tract Addition*. The 25-Year Floodplain is distinguished from the "100-Year Flood Prone Areas" or "100-Year Flood Zone as shown on FEMA maps."

SECTION 6: DEVELOPMENT CONDITIONS

Groundwater

- A.(1) The Groundwater Monitoring Program at the Four Corners Mine Southeast Tract Addition* shall be performed as required by the Manatee County Operating Permit issued for the Southeast Tract Addition* and Chapter 2-20, Code of Laws. At a minimum, the Groundwater Monitoring Program shall specify sampling locations, parameters, frequencies, duration, analytical methods, and procedures. A summary of the results of the monitoring program shall be included as part of the DRI annual report.
- A.(2) The Developer* shall properly plug and abandon all on-site wells, in accordance with SWFWMD and Manatee County Environmental Management Department standards and rules, prior to mining each area of the SE Tract*.

Surface Water

- B.(1) Best Management Practices* for reducing surface water quality impacts shall be implemented.
- B.(2) A Surface Water Monitoring Program at the Four Corners Mine Southeast Tract Addition* shall be performed as required by the Manatee County Operating Permit issued for the Southeast Tract* and in Chapter 2-20, Codes of Law. At a minimum, this Surface Water Monitoring Program shall specify sampling locations, parameters, frequencies, duration, analytical methods, and procedures. A summary of the results of the monitoring program shall be included as part of the DRI Annual Report. The Water Quality Monitoring Program required in the Operating Permit shall contain sufficient surficial water quality monitoring stations to characterize runoff from the Southeast Tract Addition*.
- B.(3) Should monitoring results indicate that applicable water quality standards are not being met due to mining activities, the violation shall be immediately reported to Manatee

County (as required under the Operating Permit for the Four Corners Mine Southeast Tract Addition*) and any other agency with jurisdiction and appropriate corrective measures shall be immediately implemented.

- B.(4) a. Copies of amendments to NPDES permits associated with the Four Corners Mine Southeast Tract Addition* (including specific conditions) shall be submitted to Manatee County.
- b. Stormwater runoff from lands cleared for mining and active mining areas shall be routed through ditches into the mine water recirculation system and discharged only through permitted NPDES outfalls.
- c. All discharges and discharge rates from the NPDES outfalls shall be in accordance with Chapter 62-620 and 62-671, FAC and conditions of the specific NPDES permit.
- B.(5) Erosion control measures such as siltation screens and hay bales shall be used to prevent surface water quality degradation.
- B.(6) Within 12 months of Manatee County obtaining necessary permits, the Developer* shall construct two (2) off-site wetland restoration projects, as follows:
- a. Ditch blocking of remnant agricultural ditches in the headwaters of the East Fork of the Manatee River, north of SR 62 and east of SR 37, in Sections 13, 14, 23, and 24, Township 33 South, Range 22 East. The scope of work for this project shall be developed jointly by the Manatee County Ecosystems Administrator, EMD, and the Developer*. The scope of work shall include but not be limited to construction of earthen ditch blocks, the provision of appropriate overflow or drawdown weir structures, regrading of existing ditches upstream of the control structures to create additional littoral shelf and wetland storage capacity from uplands, and revegetation upon completion.
- b. Ditch blocking of remnant agricultural ditches downstream of a wetland feature known as Clearwater Lake, in Section 25, Township 34 South, Range 21 East. The scope of work for this project shall be developed jointly by the Manatee County Ecosystems Administrator, EMD, and the Developer*. The scope of work shall include but not be limited to the ditch blocking methodology described in B(6)(1), above, to restore a depressional marsh which has been impacted by agricultural drainage ditches.

Manatee County will be responsible for engineering and project design costs and for obtaining all necessary regulatory permits. Should the County not obtain the permits, the Developer* shall participate in construction of another restoration project(s) on County owned land within the Lake Manatee Watershed under a scope developed jointly by the Manatee County Ecosystems Administrator, EMD and the Developer*. The Developer's* obligation in pursuing this paragraph B (6) shall not exceed One Hundred Thousand dollars (\$100,000.00).

Wetlands

- C.(1) The Developer* shall provide a thirty foot (30') wide buffer zone around all wetlands in Preservation Areas* to provide an upland transition into the wetland areas and to protect the natural systems from development impact. The protection berm may be located in the transition area. Water shall be added as needed to maintain the hydroperiod.
- a) Mitigation for wetland losses shall be as shown on the FDEP Environmental Resources Permit (ERP).
 - b) All wetland losses within the Four Corners Mine Southeast Tract Addition* shall require mitigation in accordance with the specific mitigation plan described in the ADA* and shown in Table 13-1 (attached at Exhibit E). Any deviation from the specific mitigation plan not specifically required by Manatee County or permitting agencies with jurisdiction shall trigger a Substantial Deviation determination pursuant to Section 380.06(19) F.S.
 - c) All mitigation areas and littoral shelves shall be monitored in accordance with FDEP and Manatee County requirements. Additional planting may be required to achieve the desired natural cover rate. Mitigation areas monitoring results shall be included in the DRI annual report.
- C.(2) Existing wetlands which are permitted to be altered or eliminated shall be used as donor material for revegetation or mitigation, as stated in the ADA*.
- C.(3) As stated in the ADA* agricultural activities on the site may continue until the area is prepared for mining.

Floodplains

- D.(1) There shall be no adverse hydroperiod alteration of hydroperiods in wetlands that are not approved for mining. Hydroperiods (seasonal high and normal pool elevations)

shall be established and reviewed and approved by the SWFWMD. Natural annual hydroperiods, normal pool elevations, and seasonal water fluctuations shall be substantially maintained. Hydroperiod monitoring of the above described areas shall be conducted and reported semiannually to Manatee County, as described in IMC's SWFWMD Water Use Permit 2011400, as amended. The monitoring sites shall be at the locations where the hydroperiods were established. Should the above described be adversely impacted due to mining activities, the Developer* shall cease all mining and associated activity in the affected sub-basin until remedial measures have been proposed to Manatee County, approved, and then undertaken to correct the hydroperiod imbalance. Such measures could include limitations on surrounding activities, enlargement of buffer areas and additional protection measures or water augmentation.

- D.(2) The 25-yr floodplain in Sections 13 & 14, Twp. 34 S. Rng. 22 E. shall not be disturbed by mining activity. The 25-yr floodplain in Section 11 & 12 will be mined and restored according to the plan as shown in the ADA* on Map H-3 (Exhibit F) for the Southeast Tract Addition*.
- D.(3) There shall be no net loss of 100-year floodplain storage capacity.
- D.(4) No impervious surfaces shall be constructed in the 25-year floodplain.

Vegetation and Wildlife

- E.(1) In the event that any listed species listed in Rule 68A-27.003 - 68A-27.005 FAC, are observed nesting or breeding at the Southeast Tract* in an area to be disturbed by mining operations, the developer shall immediately notify the Florida Fish and Wildlife Conservation Commission (FFWCC) and implement the recommended measures for species protection. In the event that a wood stork nesting colony is observed, the Developer* shall implement the US Fish and Wildlife Service's Habitat Management Guidelines for the Wood Stork in the Southeast Region.
- E.(2) IMC shall implement the Wildlife and Habitat Management Plan as detailed in the ADA* (pages 12-21 through 12-34), First Sufficiency Response (pages AI 81 through 93, and Second Sufficiency Response (pages 2AI 33 through 40) for the Southeast Tract Addition*, which has been approved by FFWCC and U.S. Fish and Wildlife Service. Prior to the clearing of each mining parcel, the Developer shall obtain the necessary permits and approvals for relocation or incidental take of listed species. Implementation activity associated with the approved plan or listed species permitting will be reported in the DRI annual report.

- E.(3) Planning for the clearing of areas to be mined shall consider any observed listed species. Berming and ditching around the area prior to clearing should not be performed if listed species within the area cannot traverse the ditch/berm system. Contact with the Florida Fish and Wildlife Conservation Commission or the U.S. Fish and Wildlife Service shall be made before each area is prepared for clearing. A discussion of site planning shall be included in each annual report.
- E.(4) Mining and reclamation of the northern reach of the West Fork Horse Creek floodplain shall proceed as specified in the ADA*. Any deviation not specifically required by Manatee County or permitting agencies with jurisdiction shall trigger a Substantial Deviation determination pursuant to Section 380.06(19) F.S.
- E.(5) Mining and reclamation of the area within the Myakka River watershed shall proceed as specified in the ADA*. Any deviation not specifically required by Manatee County or permitting agencies with jurisdiction shall trigger a Substantial Deviation determination pursuant to Section 380.06(19) F.S.
- E.(6) The Perpetual Conservation Easement attached as Exhibit L, hereto, which protects the habitat preserved throughout mining or recreated post mining as illustrated on Figure 13-1 (attached as Exhibit B) shall be recorded by Developer in the public records of Manatee County within sixty (60) days of adoption of this Development Order. Any amendment to this Conservation Easement shall be recorded within thirty (30) days after execution by all parties.

Drainage

- F.(1) Prior to issuance of any Operating Permit renewals for the Four Corners Mine Southeast Tract Addition*, the following information must be submitted to Manatee County: estimated total volume and peak discharge rates of stormwater runoff to be generated by the final reclamation plan during the mean annual, 25 year, and 100 year storm events.
- F.(2) The drainage basins in the Four Corners Mine Southeast Tract Addition* shall be restored to their approximate pre-mining size and location as described in the ADA*. The post-reclamation flood flow peaks shall be in accordance with the rates established in the ADA. The discharge rate shall be in accordance with Chapter 62C-16 F.A.C. requirements.
- F.(3) All re-created wetlands shall be subject to all the rules, regulations, and policies of local, state, regional, and federal agencies governing wetland areas when such areas meet the definition of "wetland" as specified by the County, FDEP, and ACOE, respectively.

- F.(4) The re-created wetlands shall be designed to promote seasonal fluctuations of water levels within the freshwater marsh and encourage seasonal inundation of the marsh property. Final grade of the side slopes of the marsh periphery shall meet the requirements established by Manatee County in the Mining Ordinance* or by the Department of Environmental Protection, whichever is more stringent.
- F.(5) The Developer* shall be responsible for maintaining the water recirculation system and the drainage system, including channels, swales, culverts, erosion protection facilities, and discharge facilities during mining and reclamation. Any transfer of this responsibility from the Developer* to subsequent owners, or assigns, shall require the approval of the appropriate permitting agency.

Water Supply

- G.(1) There shall be no net increase in the public water demand in excess of the currently permitted volume for the Four Corners Mine* as it pertains to mining in the Southeast Tract Addition*.

Transportation

- H.(1) All non-public roads, streets, bridges, and other access ways located upon the site shall be constructed and maintained by the Developer* without any cost or obligation to Manatee County.
- H.(2) Establishment of crossing points on County roads for purposes of access, movement of mining machinery, or mineral transport pipelines shall not be permitted, as committed to in the ADA*.

Mining Operations

- I.(1) The Developer* shall obtain all the necessary construction and operation permits and approvals required by, and shall fully comply, to the extent not inconsistent with this Development Order with all the provisions of applicable laws, ordinances, rules, regulations, or requirements of any federal, state, regional, or county governmental authority in connection with the proposed mining activities at the Southeast Tract Addition*.
- I.(2) The two clay disposal areas for the Southeast Tract* shall contain an amount of waste clay approximately equivalent to the amount of waste clay produced from Southeast Tract*.

- I.(3) All earthen embankments (dams) shall be designed, constructed, inspected, and maintained in accordance with the standards of Chapter 62-672, FAC - Minimum Requirements for Earthen Dams, Phosphate Mining, and Processing Operations, as indicated in the ADA* for the Southeast Tract*, as well as all other applicable local, state, and federal requirements.
- I.(4) The Developer* shall abide by all Florida Department of Environmental Protection (FDEP) reclamation regulations regarding site cleanup and shall dismantle and remove any building structures existing at the cessation of the mining operation that cannot be put to an allowable use under a proposed post reclamation zoning district classification of the property.
- I.(5) The Developer* shall reclaim all mined or disturbed land to FDEP or Manatee County standards, whichever is more stringent. Reclamation and revegetation shall proceed immediately after mining activities cease in each parcel and in no case shall exceed the schedule for reclamation outlined in Table 35-5 of the ADA* (Attached as Exhibit I). The Developer* shall be responsible for maintenance of all reclaimed areas until such time that those areas are approved as reclaimed by Manatee County in accordance with the procedures established in the Mining Ordinance*.
- I.(6) The Developer shall utilize Best Management Practices* (including revegetation, reforestation, erosion control, etc.) for all mined or disturbed lands to accelerate and ensure the successful establishment of the natural vegetative associations that the reclamation areas are designed to support. Wherever possible, leach zone material shall be covered by graded spoil to lessen the potential of increased radiation levels on reclaimed lands.
- I.(7) Reclamation shall be considered complete when areas intended to develop native forested and unforestad wetland vegetation associations are firmly established and it is assured that these areas will develop the vegetation associations that they are designed to support, and when FDEP and Manatee County have approved the reclamation of the Four Corners Mine Southeast Tract* in accordance with Chapter 62C-16, Florida Administrative Code and the Mining Ordinance*.
- I.(8) During the mining and reclamation period, the Developer* shall allow no development or land use activity (such as grazing, farming, tree harvesting) within any newly established 25-Year Floodplains* that would in any way inhibit the growth and development of native vegetation associations appropriate for floodplains.
- I.(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;
- b. A minimum of 45 feet or not less than as defined in the stability study from an existing public right-of-way;
- (3) 500 feet of IMC-Phosphate Company property line, except where waivers from the affected property owner(s) have been obtained.

Within the above described setback areas along Duette Road, the applicant shall construct an earthen berm, 6'-8' in height above the roadway elevation, prior to commencement of mining activities.

I.(10) Radiation standards shall be maintained as follows:

- a. For the SE Tract*, the radiation standards shall be maintained in accordance with Section 2-20-33(d) of the Mining Ordinance*;
- b. Any building shall be designed and constructed and all reclamation shall be done to provide protection against gamma radiation and radon gas accumulation and emanation in accordance with the most stringent applicable state and federal requirements.
- (3) This section shall be subject to any restrictions set forth in Section 553.98, Florida Statutes.

I.(11) Within the West Fork channel and wetland system, the reclamation schedule will be expedited by placing the sand tailing fill the year after each area is mined, and then revegetate so that the total time each block is disturbed from start of mining to being effectively reclaimed is about three years.

I.(12) The Southeast Tract* shall be reclaimed in such a way that pre-mining groundwater outflows from the surficial aquifer are approximated, taking into account the increased evapotranspiration from the increased wetland areas.

General Conditions

J.(I) Best Management Practices* shall be required for the operation, maintenance, and reclamation of the Southeast Tract*. Best Management Practices* shall be used to accelerate the natural development of those areas that are intended to support native forested and unforestad wetland vegetation associations. Utility and pipeline crossings of the tributaries shall, at a minimum, meet the following:

- a) Pipelines shall be placed above the 25-Year Floodplain* elevation and isolated from tributaries by berms.
 - b) Pipelines shall be jacketed and spill containment areas outside the floodplain shall be provided.
 - c) Pipelines shall be routinely inspected by operating personnel and the system shall be shut down if a spill occurs until the source of the spill is corrected.
 - d) All utility crossings shall be elevated above the 25-Year Floodplain* level as shown in the ADA*.
- J.(2) All of the Developer's* commitments, which are set forth in Exhibit G for the Southeast Tract Addition*, shall be honored for the SE Tract*, except as they may be superseded by specific terms of this Ordinance.
- J.(3) The DRI annual report shall comply with the Florida Department of Community Affairs (DCA) report format and informational requirements, and shall include summaries of NPDES monitoring results and surface water and groundwater quality monitoring results (including notification of violations of water quality standards per Chapters 62-302 and 62-520, FAC); mining progress; impacts on surface water and groundwater flows; compliance with listed species management plans; success or problems with listed species management plans; reclamation progress and compliance with approved mining and reclamation schedules. The Developer* shall submit annual DRI reports in accordance with Section 380.06(18), F. S., to Manatee County, the TBRPC, State Land Planning Agency, and other agencies as may be appropriate, no later than July 31st of each year until such time as terms and conditions of this Development Order are satisfied as determined by Manatee County. Six copies of this report shall be submitted to the Director of Manatee County Planning Department, or the Director's designee, who shall review the report for compliance with the terms and conditions of this Order and may submit an appropriate report to the County Commissioners should the Director decide that further orders and conditions are necessary. The Developer* shall be notified of any Board of County Commissioners hearing wherein such report is to be reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, waiver, or change of conditions as to any terms or conditions of this Order. The annual report shall, at a minimum, contain the following:
- a) Any changes in the plan of development, or in the representation contained in the ADA* for the Southeast Tract Addition*, or in the phasing for the reporting year and for the next year;

- b) A summary comparison of development activity proposed and actually conducted for the year;
- c) Undeveloped tracts of land, other than individual single-family lots, that have been sold to a separate entity or developer in the Southeast Tract Addition*;
- d) Identification and intended use of lands purchased, leased, or optioned by the Developer* adjacent to the Southeast Tract Addition* site since the Development Order was issued;
- e) An assessment of the Developer's* and the local government's compliance with the conditions of approval contained in the DRI Development Order and the commitments that are contained in the Southeast Tract ADA* and which have been identified by the local government, the Regional Planning Council, or the Department of Community Affairs as being significant;
- f) Any known incremental DRI applications for development approvals or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year for the Southeast Tract Addition*;
- g) An indication of a change, if any, in local government jurisdiction for any portion of the development since the Development Order was issued;
- h) A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;
- i) A statement that all persons have been sent copies of the annual report in conformance with Subsections 380.06(14) and (16), Florida Statutes;
- j) A copy of any recorded notice of the adoption of a Development Order or the subsequent modification of an adopted Development Order that was recorded by the Developer* pursuant to Subsection 380.06(15) (d), Florida Statutes;
- k) Monitoring results pursuant to stipulations A.(1), B(2), B(4)a, E(2), and E(3);
- l) Any notice of violation for noncompliance for the Southeast Tract Addition*, and
- m) A copy of the approved Spill Notification, Containment, and Contingency Plan for FM-1 and FM-2 shall be submitted to TBRPC in the Annual Report following the County's written approval of said plan. Subsequent updates or revisions to

this plan shall also be submitted to TBRPC in the Annual Report following such update or revision, which include the hurricane procedure.

- J.(4) Mining under this Development Order shall terminate fourteen (14) years from the effective date of this Ordinance. This Development Order shall not expire until December 31, 2021, or until all reclamation has been completed and accepted by Manatee County, whichever occurs first.
- J.(5) This Ordinance shall constitute a Development Order issued in accordance with Chapter 380, Florida Statutes.
- J.(6) The Developer* shall, within sixty (60) days after notice by Manatee County of the amount of fees due and owing, pay all fees owed to Tampa Bay Regional Planning Council and Manatee County for the review of the Southeast Tract Addition ADA*, except those fees in dispute and under review or appeal. Failure to make such payment shall require a cessation of mining activities until payment is made.
- J.(7) Any historical or archaeological resources discovered during mining operations within the Southeast Tract Addition* shall be immediately reported to the DHR and the ultimate disposition of such resources shall be determined in cooperation with the DHR, TBRPC, and Manatee County. The Florida Division of Historical Resources shall evaluate the significance of such findings and assess the measures which will be taken to avoid, minimize, or mitigate any adverse impacts prior to continuation of mining activities. The agreed upon treatment of the resources shall be completed before activities which would disturb the resources are allowed to continue.
- J.(8) Should the pre-mining, mining, or post-mining scenarios depart significantly from the schedules and methods described in the ADA, the project will be subject to a Substantial Deviation determination pursuant to Section 380.06(19), Florida Statutes.
- J.(9) Any change to the project which meets the criteria set forth in Subsection 380.06(19), F.S., shall constitute a Substantial Deviation. For the purposes of Section 380.06(19)(b).5, Florida Statutes, the acreage shall be that of both Four Corners Mine DRI* and Four Corners Mine Southeast Tract Addition*
- J.(10) Payment for any future activities of the TBRPC with regard to this development shall be paid to the TBRPC by the applicant/developer in accordance with the Rule 9J-2.0252, FAC.
- J.(11) The Disaster and Hurricane Plan shall be updated to reflect the expansion area, as appropriate. The revised Plan shall be included in the Annual Report submitted following construction of the first clay settling pond in the expansion area.

Air Quality

K.(1) Best Management Practices, including those identified in the ADA, shall be employed during site preparation, mining and reclamation to minimize air quality impacts.

SECTION 7. LEGAL DESCRIPTION:

The following legal description of the development site covers only the "Southeast Tract*" portion of the Four Corners Mine within Manatee County, although the original DRI also included areas in Hillsborough County. The Hillsborough County portions are the subject of a separate development order issued and amended by Hillsborough County.

Southeast Tract*:

IN TOWNSHIP 33 SOUTH, RANGE 22 EAST, MANATEE COUNTY, FLORIDA:

Section 36: The NE 1/4 of the SE 1/4

IN TOWNSHIP 34 SOUTH, RANGE 22 EAST, MANATEE COUNTY, FLORIDA:

Section 1 : All.

Section 2 : That part of the S 1/2 lying east of the easterly maintained right of way line of Walker Road, as said road existed on October 31, 2000.

Section 11: That part of the E 1/2 lying east of the easterly maintained right of way line of Walker Road and Duette Road, as said roads existed on October 31, 2000; and that part (if any) of the NW 1/4 lying east of the aforementioned easterly maintained right of way line of Walker Road.

Section 12: All.

Section 13: All LESS the S-1/2 of SE-1/4 of SW-1/4 and LESS the S-1/2 of SW-1/4 or SE-1/4.

Section 14: All LESS that part lying west of the center line of a certain county-maintained road run northwesterly-southeasterly through said Section 14, the excepted part being that part of said Section 14 conveyed by George L. Manson to Harry Lesnick under deed dated July 22, 1959, recorded in Deed Book 409, page 265, Manatee County, Florida.

Containing 2,508 acres, more or less.

SECTION 8. DEADLINE FOR COMMENCEMENT OF DEVELOPMENT.

Physical development of the Project* shall commence within three years of IMC Phosphates Company receiving all required permits to mine the Southeast Tract Addition*. If physical development of the project has not commenced within three years, or if any five year period shall expire without significant additional physical development activity on the site, the BOCC may conduct a public hearing in accordance with the Land Development Code after appropriate notice to the Developer* and may, at its option, based on testimony presented at that hearing, rescind, or suspend or take other appropriate action on any and all approvals granted herein except where the failure to carry out development is attributable to factors beyond the control of the Developer.

SECTION 9. DEVELOPER* COMMITMENTS

The ADA, two sufficiency responses, and additional information (dated October 23, 2000, November 1, 2000, and December 6, 2000) submitted are specifically incorporated by reference, except as they may be superseded by specific terms of this Development Order to the extent that commitments are made in these documents, they shall be honored as Developer* Commitments. The Developer* commitments for the Southeast Tract Addition* are attached as Exhibit G.

SECTION 10. RESTRICTIONS ON DOWN-ZONING

Prior to December 31, 2021, the County may not down-zone or reduce the intensity or unit density permitted by this order, unless the County can demonstrate that:

- A. Substantial changes in the conditions underlying the approval of the order have occurred; or
- B. The order was based upon substantially inaccurate information provided by the Developer*; or
- C. The change is clearly established by the County to be essential for the public health, safety, or welfare.

Any down-zoning or reduction in intensity shall be effected only through the usual and customary procedures required by statute or ordinance for change in local land development regulations.

For the purposes of this order, the term "down-zone" shall refer only to changes in zoning, land use, or development regulations that decrease the development rights approved by this order, and nothing in this paragraph shall be construed to prohibit legally enacted changes in zoning

regulations which do not decrease the development rights granted to the Developer* by this order. The inclusion of this section is not to be construed as evidencing any present or foreseeable intent on the part of the County to down-zone or alter the density of the development, but is included herein to comply with Paragraph 380.06(15)(c)3, Florida Statutes.

SECTION 11. BINDING ORDER UPON DEVELOPER*

This order shall be binding upon the Developer*, Owners*, and the County and upon the Developer's and Owner's grantees, successors, and assigns.

SECTION 12. EFFECTIVE DATE

This Ordinance shall become effective upon filing of a certified copy with the Department of State; provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend development authorization granted by this Development Order, until the resolution of said appeal.

SECTION 13. RENDITION

The Planning Department is hereby directed to send certified copies of this Development Order within thirty (30) days of the Board of County Commissioners approval to the Developer*, the DCA, and the TBRPC.

SECTION 14. COMPLIANCE AND MONITORING

The Manatee County Planning Director or the Director's designee shall be responsible for monitoring and ensuring compliance with the Development Order.

SECTION 15. NOTICE OF RECORDING

The Developer* shall record a notice of adoption of this order as required pursuant to Chapter 380, Florida Statutes, and shall furnish the Planning Department a copy of the recorded notice with the first annual report.

SECTION 16. SEVERABILITY

It is the intent of this Development Order to comply with the requirements of all applicable laws and constitutional requirements. If any provision of the Ordinance or the application thereof to any person or circumstance is for any reason held or declared to be unconstitutional, inoperative, or void by a court of competent jurisdiction, such holding of invalidity shall not

affect the remaining portions or applications of this Ordinance, and to this end the provisions of this Ordinance are declared severable.

PASSED AND DULY ADOPTED with a quorum present by the Board of County Commissioners of Manatee County, Florida this 19th day of December, 2000.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

BY: Joe McClash
Chairman

ATTEST: **R. B. SHORE**
Clerk of the Circuit Court

Susan P. Shore



Ordinance 00-49 List of Exhibits

- A. MAP H-1 revised, dated November 27, 2000**
- B. FIGURE 13-1, dated December 6, 2000**
- C. MAP A-2 revised, dated November 1, 2000**
- D. MAP C-3, dated November 1, 2000**
- E. TABLE 13-1 revised, dated December 6, 2000**
- F. MAP H-3 revised, dated November 1, 2000**
- G. DEVELOPER'S COMMITMENTS**
- H. MAP 35G-2, dated December 6, 2000**
- I. TABLE 35-5, Reclamation Schedule**
- J. TABLE 12-1, Existing and Proposed Land Use and Cover Types, revision dated December 6, 2000**
- K. TABLE 35-4, Mined and Disturbed Areas**
- L. Perpetual Conservation Easement**

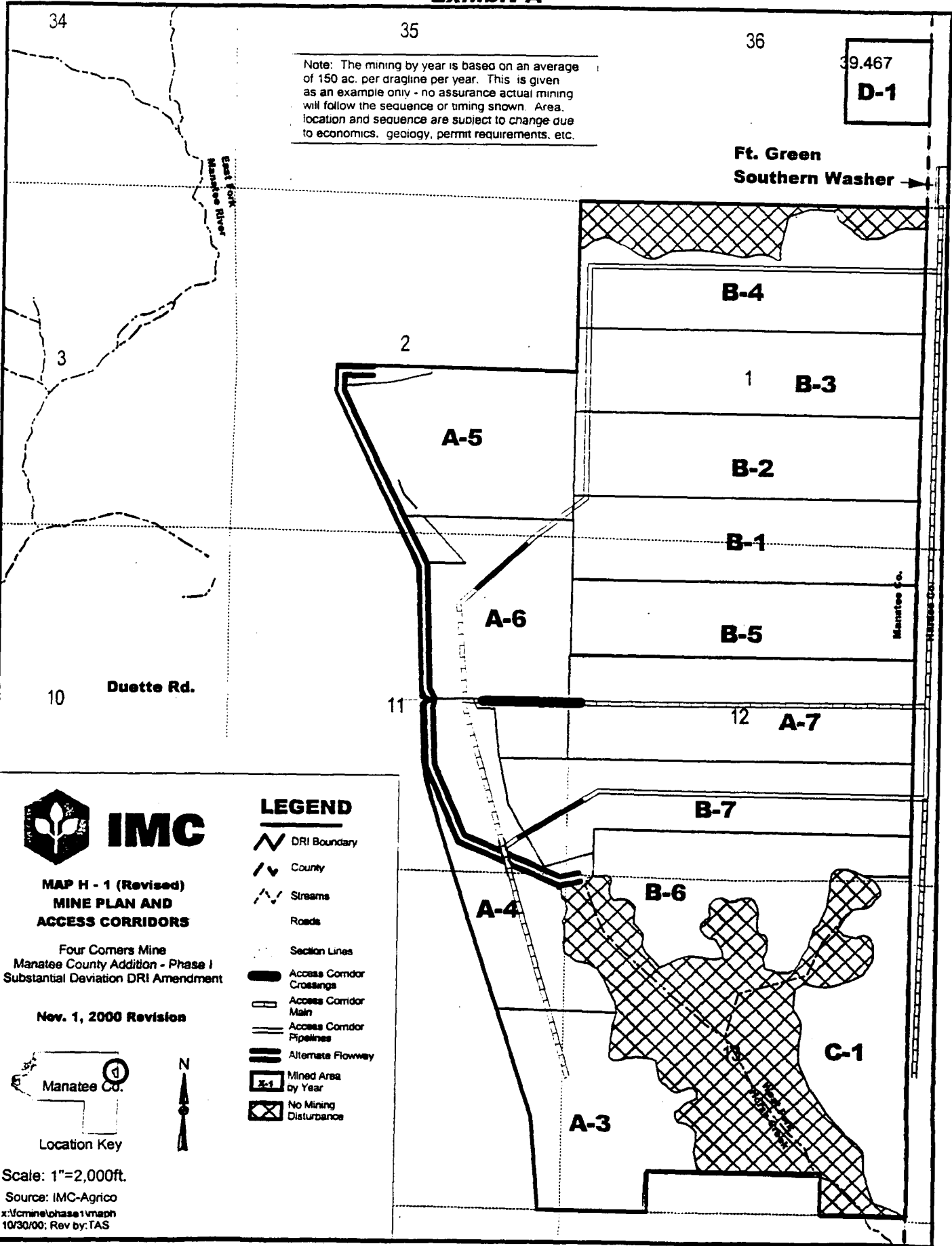
Exhibit A

Note: The mining by year is based on an average of 150 ac. per dragline per year. This is given as an example only - no assurance actual mining will follow the sequence or timing shown. Area, location and sequence are subject to change due to economics, geology, permit requirements, etc.

39.467

D-1

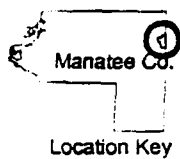
Ft. Green Southern Washer →



MAP H - 1 (Revised) MINE PLAN AND ACCESS CORRIDORS

Four Corners Mine
Manatee County Addition - Phase I
Substantial Deviation DRI Amendment

Nov. 1, 2000 Revision



Scale: 1"=2,000ft.
Source: IMC-Agrico
x:\fmine\phase1\maph
10/30/00; Rev by: TAS

LEGEND

- DRI Boundary
- County
- Streams
- Roads
- Section Lines
- Access Corridor Crossings
- Access Corridor Main
- Access Corridor Pipelines
- Alternate Flowway
- Mined Area by Year
- No Mining Disturbance

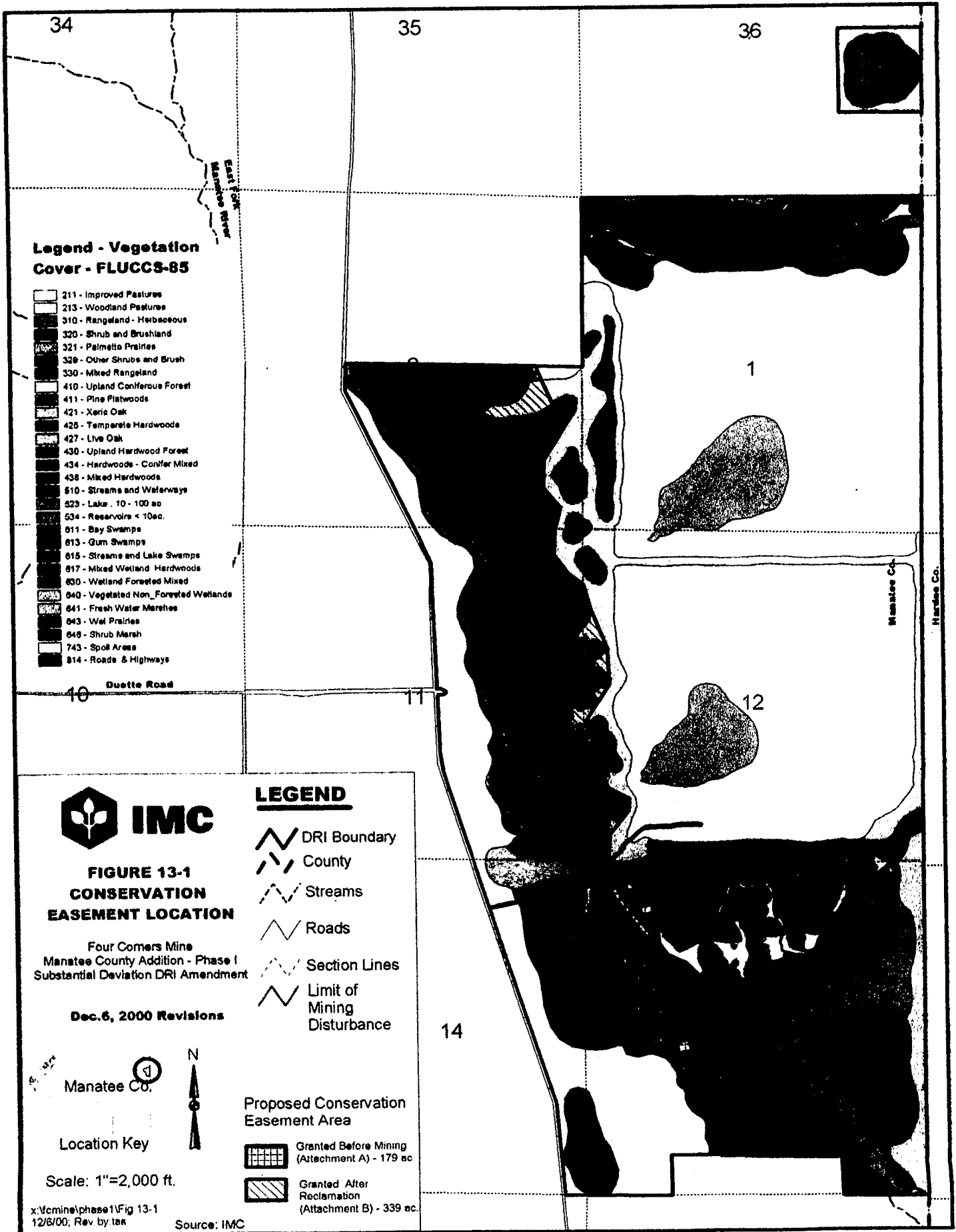
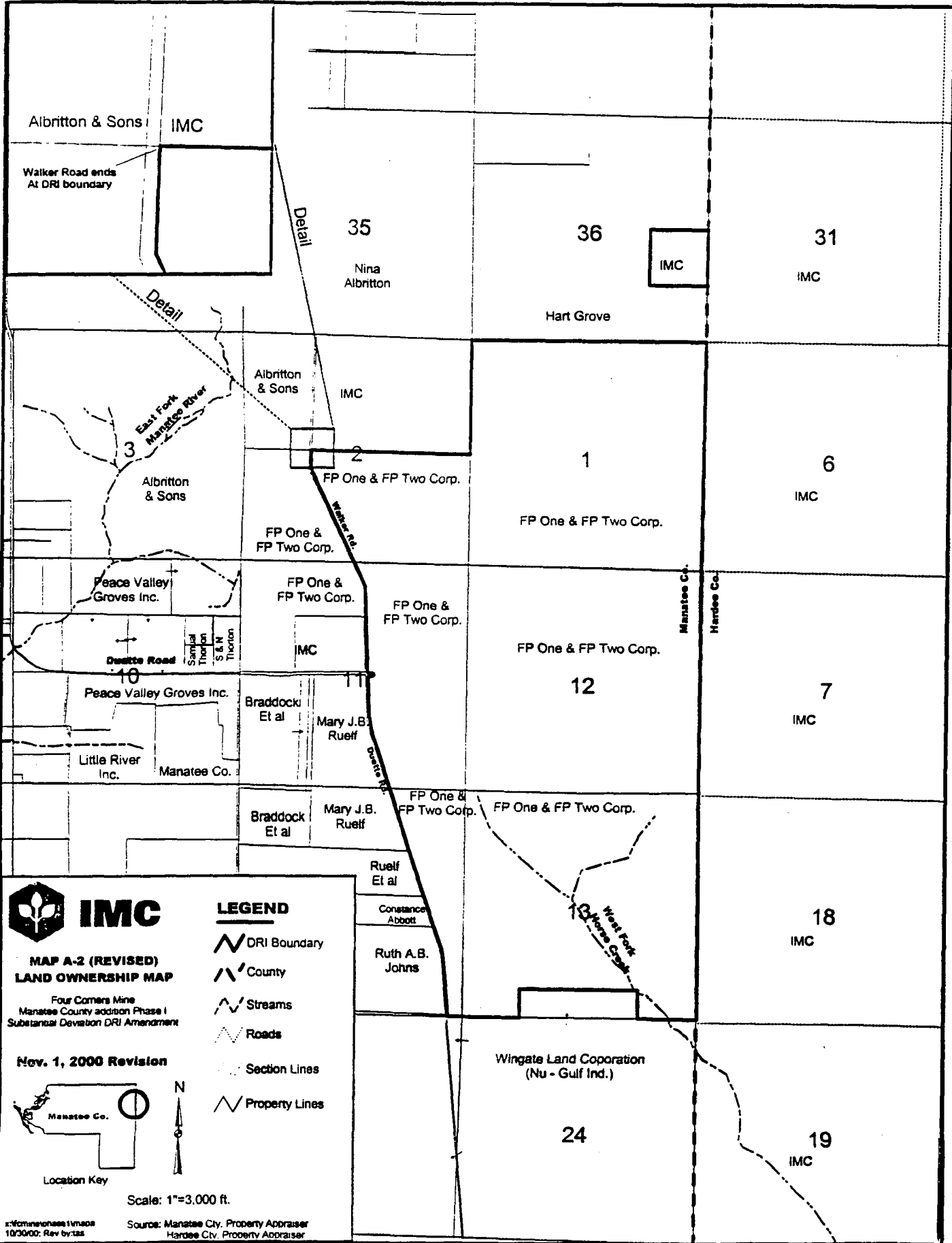


Exhibit C



IMC

**MAP A-2 (REVISED)
LAND OWNERSHIP MAP**

Four Corners Mine
Manatee County addition Phase I
Substantial Deviation DRI Amendment

Nov. 1, 2000 Revision



Location Key

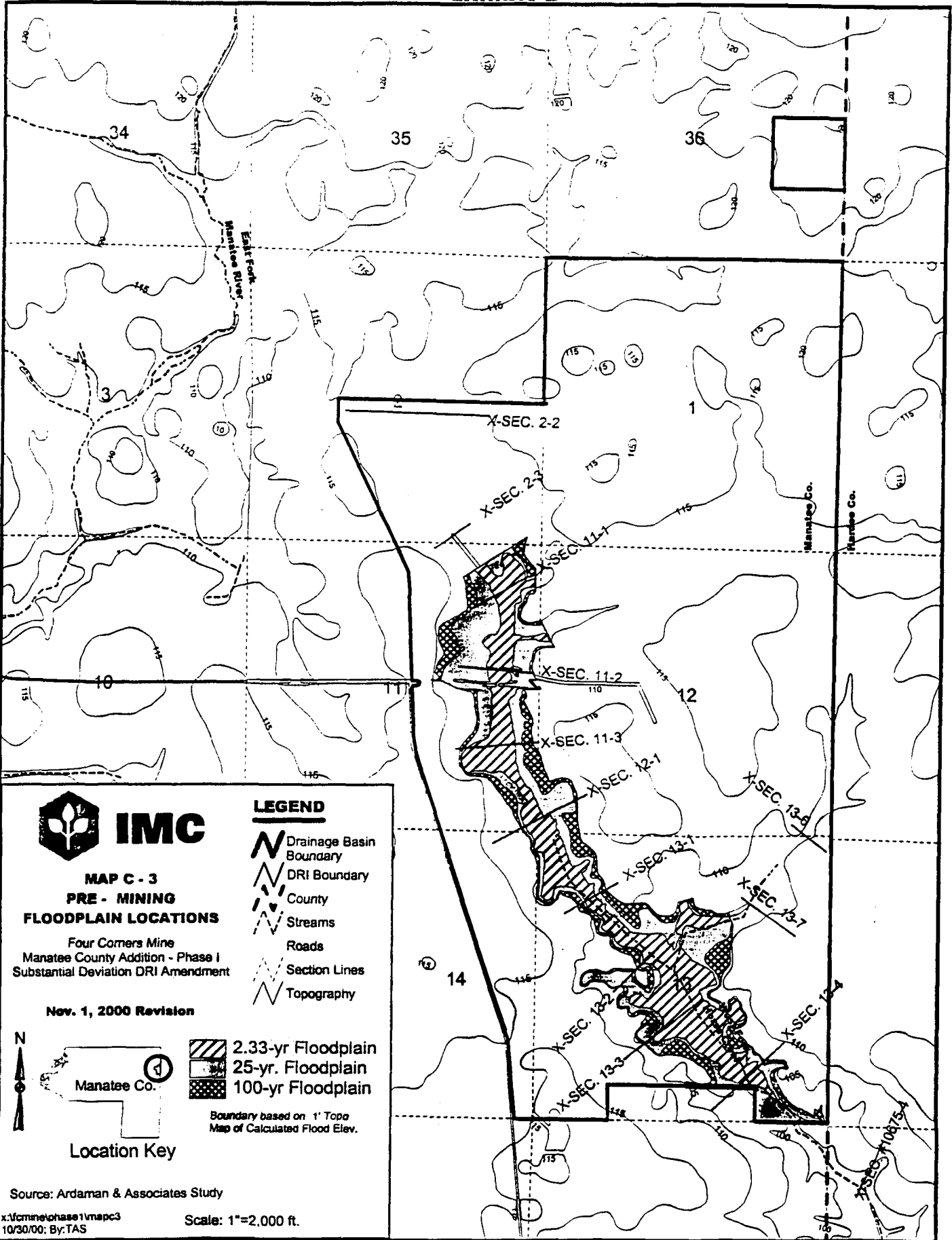


Scale: 1"=3,000 ft.

LEGEND

- DRI Boundary
- County
- Streams
- Roads
- Section Lines
- Property Lines

Exhibit D



**MAP C - 3
PRE - MINING
FLOODPLAIN LOCATIONS**

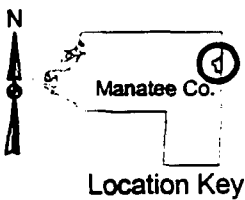
Four Corners Mine
Manatee County Addition - Phase I
Substantial Deviation DRI Amendment

Nov. 1, 2000 Revision

- LEGEND**
- Drainage Basin Boundary
 - DRI Boundary
 - County
 - Streams
 - Roads
 - Section Lines
 - Topography

- 2.33-yr Floodplain
- 25-yr. Floodplain
- 100-yr Floodplain

Boundary based on 1' Topo
Map of Calculated Flood Elev.



Source: Ardaman & Associates Study

x:\fmine\phase1\mapc3
10/30/00: By:TAS

Scale: 1"=2,000 ft.

EXHIBIT E

TABLE 13-1 revised
December 6, 2000 Revision
Wetland Impact Summary
FDEP Jurisdictional Areas

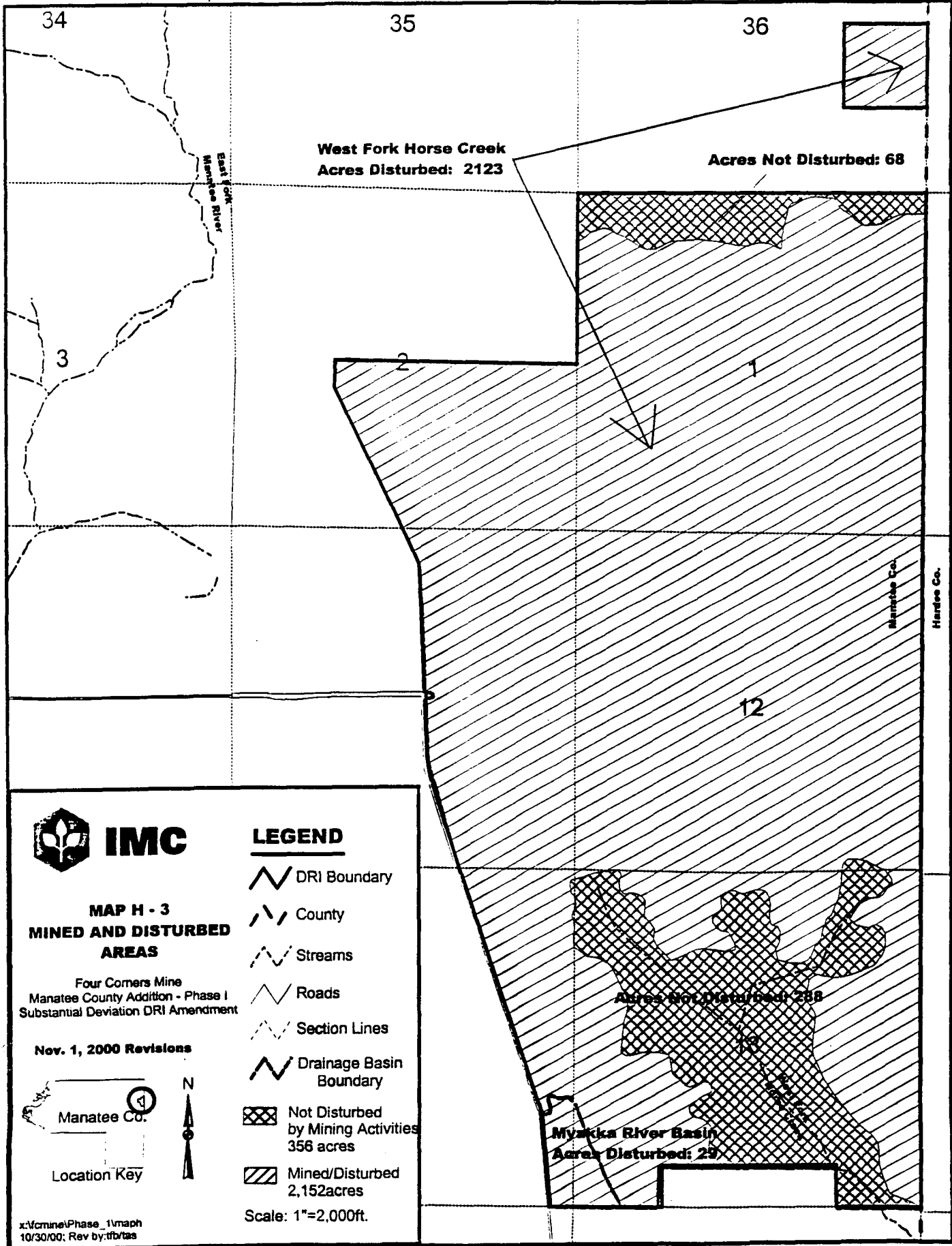
(AREA IN ACRES)

FLUCCS CATEGORY	FDEP JD AREA PRE DEVELOPMENT	FDEP JD AREA UNDISTURBED	FDEP JD AREA DISTURBED	PROPOSED TOTAL RECLAMATION	** RATIO POST:PRE	TOTAL POST RECLAMATION
200 AGRICULTURE						
210 Cropland and Pasture						
211 Improved Pastures	12.5	0.9	11.6			1
213 Woodland Pasture	3.9	0.0	3.9			0
SUB TOTAL	16.4	0.9	15.5			1
300 RANGELAND						
310 Herbaceous	2.1	1.8	0.4			2
320 Shrub and brushland	0.0					
321 Palmetto Prairie	0.4	0.4	0.0			0
329 Other Shrub and Brushland	5.1	5.1				
330 Mixed Rangeland	0.0		0.0			
SUB TOTAL	7.6	7.3	0.4			7
400 UPLAND FOREST						
410 Upland Coniferous Forest						
411 Pine Flatwoods	0.0	0.0	0.0			
420 Upland Hardwood Forest	0.0					
421 Xeric Oak						
425 Temperate Hardwoods	11.8	11.8	0.0			12
427 Live Oak	0.0		0.0			
430 Upland Hardwood Forest Continued	0.0					
434 Hardwood Conifer Mixed	1.1	1.1	0.0			1
438 Mixed Hardwood	0.0		0.0			
SUB TOTAL	12.9	12.9	0.0			13
500 WATER						
510 Streams and Ditches						
512 Man Made Ditches and Canals	24.0	0.1	23.9	1		1
523 Lake (+10ac.)				23		23
530 Wetlands Forested Mixed						0
534 Reservoirs < 10 Acres	2.0	0.3	1.7			0
SUB TOTAL - OPEN WATER	26.0	0.4	25.6	24		24
600 WETLANDS						
610 Wetland Hardwood Forests						
611 Bay Swamps	45.7	44.5	1.2	1		46
613 Gum Swamps	14.6		14.6	15		15
615 Stream and Lake Swamps	90.2	85.3	4.9			85
617 Mixed Wetland Hardwoods	57.2	31.3	25.9	87		119
620 Wetland Coniferous Forest	0.0					0
630 Mixed Wetland Forest	21.4	11.6	9.8	26		38
SUB TOTAL - FORESTED	229.1	172.8	56.3	129	2.29	302
640 Vegetated Non-Forested Wetlands				100		100
641 Freshwater Marshes	208.2	24.8	183.4	229		254
643 Wet Prairies	75.0	23.7	51.3	55		78
646 Shrub Swamps	29.2	17.9	11.3	19		37
SUB TOTAL - MARSH	312.3	66.4	248.0	403		469
Sub Total - Marsh (200, 300 & 640's)			261.8	403	1.54	
TOTAL FDEP J.D. WETLANDS (200, 300, 400, 500s & 600s) *	604.5	260.8	343.7	555.7	1.62	816.5
TOTAL FOR SITE	604	261	344	558	1.62	817

* = FDEP Jurisdiction (J.D.) areas contain areas with upland vegetation cover.

** = Ratio is Reclamation Wetlands / Total FDEP J.D. area impacted.

Exhibit F

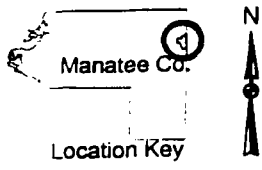


IMC

**MAP H - 3
MINED AND DISTURBED
AREAS**

Four Corners Mine
Manatee County Addition - Phase I
Substantial Deviation DRI Amendment

Nov. 1, 2000 Revisions



LEGEND

- DRI Boundary
 - County
 - Streams
 - Roads
 - Section Lines
 - Drainage Basin Boundary
 - Not Disturbed by Mining Activities 356 acres
 - Mined/Disturbed 2,152 acres
- Scale: 1"=2,000ft.

x:\Vmine\Phase_1\map
10/30/00; Rev by:tfb/tas

Exhibit G Developer Commitments

The following commitments have been made by, or on behalf of, the applicant in the Application for Development Approval (ADA), the first Sufficiency Response (SR1), the second Sufficiency Response (SR2), and additional information submitted on October 23, 2000 and November 1, 2000. This list has been modified from the list in the TBRPC report to reflect the removal of the area in the Manatee Watershed.

PROJECT DESCRIPTION

No beneficiation plant construction is required as part of the proposed development. (ADA/Page 10-4)

VEGETATION, WILDLIFE AND WETLANDS

1. A Site Habitat Management Plan has been developed to prescribe the scope of the final one-time listed species surveys that will be conducted in advance of clearing land for mining and to describe the steps IMC will take to mitigate potentially significant impacts to the listed vegetative and wildlife species identified during the seasonal surveys. The Plan is found on pages 12-22 - 12-30. (ADA/Page 12-22)
2. No disturbance will occur to the "higher quality wetlands" in the southern portion of the Horse Creek West Fork floodplain. (ADA/Page 10-5)
3. A total of 239.6 acres of FDEP jurisdictional wetland area will be left unmined. Forested wetlands with IMC-WRAP summary scores greater than 0.70 will not be mined with the exception of two small areas. Non-forested wetlands with IMC-WRAP summary scores greater than 0.70 will also not be mined, with the exception of 0.4-acre Wetland A14. In addition, upland native habitat buffers will be left unmined at strategic locations adjacent to wetland areas that are also designated to be left unmined. (ADA/Page 13-4; 4AI/Page 11)
4. A combination of proven techniques will be used to protect unmined wetlands during mining and reclamation activities... (ADA/Page 13-4)
5. Reclaimed wetlands will be created to have hydroperiods more typical of natural undisturbed wetland systems. (ADA/Page 13-5)
6. All impacted wetlands will be replaced in accordance with the specific mitigation

ratios listed in Table 13-1. Upland habitat/buffers will be constructed around all undisturbed and created wetlands. (ADA/Page 13-5; 4AI/Page 11)

7. A large, vegetated alternate flow way, 50 to 70 feet wide, will be constructed to maintain flow in West Fork Horse Creek and provide habitat and water quality treatment during mining and reclamation activities. It will provide approximately 20.5 acres of inundated shallow herbaceous wetland habitat and water quality treatment area. The proposed post reclamation stream system will provide approximately 286 acres of inundated habitat and water quality treatment area. The system will consist of a series of interconnected wetlands created in a step down fashion more similar to the historic configuration of this creek system than presently exists. (ADA/Page 13-5)
8. Recharge ditches will keep wetlands hydrated during the time they are separated from their respective watersheds. A source of clear water, such as rainwater, dewatering well discharge, overburden drainage into the active mine cut, or recirculation water will be used for recharge water for the ditches. Input into the recharge ditches will be adjusted to maintain appropriate groundwater and surface water elevations. (ADA/Page 13-9)
9. If muck is not available as a surface treatment to provide nutrients and genetic material for reclamation, herbaceous wetlands will be planted with a diverse array of native plant species at a density of up to approximately 4,800 plants per acre. Forested systems will be planted with trees at a density of approximately 600 trees per acre. (ADA/Page 13-10)
10. Preclearing survey reports and management techniques implemented will be reported to the responsible agencies through the annual DRI status reports. (SR1/Page AI-81)
11. In order to protect the Florida Sandhill crane, spring surveys will be conducted in areas scheduled for clearing within the following 12 months to ascertain the then current nesting status of all potential nesting sites scheduled for disturbance during the next year. If any nesting activity is found, mining-related disturbances will be deferred until nesting is complete and the birds have fledged. (SR1/Page AI-87)
12. Pre-clearing surveys will be conducted to identify any kestrels nesting on-site. If found, mining activities will be scheduled to avoid disrupting active nests. (SR1/Page AI-87)
13. The responses to TBRPC Questions 10-29 and 12-1 describe the procedures IMC will use to coordinate with the USFWS and FFWCC on measures to protect

all listed species observed (now or in the future) on the Four Corners Mine Southeast Tract Addition parcels. (SR1/Page AI-88)

14. Revised Map 35G-2 illustrates that 26 isolated wetland systems will be created during the land reclamation stage of the development. (SR1/Page AI-108; 4AI/Map 35G-2)
15. Topsoil (muck) will be segregated whenever a stockpiling time frame of five years or less will exist and if the donor site will not contain an excessive level of nuisance species. (SR1/Page AI-110)
16. Degraded habitats present in the pre-mining condition will be reclaimed to better conditions. Preservation areas will be retained to promote the protection of the regional wildlife and plant species and will act as suitable colonization sources for the reclaimed habitats. (SR2/Page 2AI-34)
17. The uplands that IMC proposes to reclaim will be designed to have connection to undisturbed areas so that they will have a way to repopulate. Relocation and restocking efforts as appropriate and approved by the various agencies will be conducted and will speed up the colonization of the reclaimed habitats. (SR2/Page 2AI-35)
18. IMC will continue to work toward establishing a voluntary conservation easement on the reclaimed portion of the Integrated Habitat Network on site. IMC will keep Manatee County informed on the progress of any conservation easements that are obtained. (SR2/Page 2AI-43)

WATER QUALITY AND STORMWATER MANAGEMENT

1. Clearing of lands to be mined will not occur until the perimeter (ditch and berm) system is in place and functional. (ADA/Page 14-20)
2. Surface water quality will be maintained by use of the perimeter berm and ditch system that will contain all storm water runoff and route these flows to settling areas for clarification. (ADA/Page 14-21)
3. The velocities, volumes, and rates of flow will be the same or slightly lower in the post reclamation condition. The upper reaches of the West Fork Horse Creek will be reclaimed in the post reclamation condition to a flat, broad floodplain vegetated by herbaceous and forested wetland species. Elevations in the post reclamation condition will be about the same as pre-mining, except at the two reclaimed settling areas, which will be about five feet higher in the post reclamation condition to maintain positive drainage. (ADA/Page 19- 4)

4. The extensive ditching present in the pre-mining condition will be eliminated in the post reclamation landscape. The reclaimed wetland features will provide natural flow regimes which will increase biological assimilation of nutrients and other pollutants while reducing the potential for turbidity entrainment, stagnation, and fluctuations in water biochemical parameters. (ADA/Page 19-7)
5. Existing discharge locations, peak rates, and volumes will remain essentially unchanged. (ADA/Page 19-1)
6. Perimeter recharge ditch and berm will be inspected during each shift. Staff gauges will be installed to ensure adequate water is present in the ditch to maintain the ground water levels. Written copies of these inspections will be available for agency review. Piezometers will be read weekly and the information will be reviewed by IMC Environmental staff to ensure that the recharge ditches are maintaining the water table at proper levels. (SR1/Page AI-115)
7. After reclamation, the total area of herbaceous wetlands on the tract will increase to approximately 0.47 mi². The total area of forested wetlands will increase to approximately 0.64 mi². (SR1/Page AI-120; 4AI/Table 12-1)
8. The measures that IMC will employ to ensure that project impacts upon the West Fork Horse Creek are minimized include:
 - a. limiting the proposed disturbance to the segment of West Fork Horse Creek where the natural channel and associated floodplain wetland features no longer exist, having been replaced with a man-made ditch/canal;
 - b. constructing a temporary alternate flow way in advance of the proposed disturbance, sized to contain the 100-year flood event and stabilized with aquatic vegetation;
 - c. reclaiming a broad riparian floodway with increased flood storage capacity and a sinuous braided channel following mining that more closely resembles natural conditions;
 - d. allowing the reclaimed channel and floodplain to be revegetated and stabilized prior to diversion of flow from the alternate flow way; and
 - e. construction and maintenance of storm water runoff capture berms and artificial systems along the remaining natural portion of the West Fork Horse Creek channel and floodplain forest to maintain water quality and

ground water base flow. (SR2/Page 2AI-47)

SOILS

1. All of the sand and clay backfill will originate from IMC mine property. All overburden spoil generated by mining the Four Corners Mine Addition parcels will be beneficially used (disposed) onsite as part of the reclamation process. (ADA/Page 15-2)
2. All lands proposed to be reclaimed as natural systems will be reclaimed by backfilling with sand and then grading an overburden cap. In the event there is found to be hard or compacted soils at the surface at the end of reclamation earthmoving, the area will be plowed (disked using a farm tractor) at the time of upland tree planting. (SR2/Page 2AI- 58)

FLOODPLAINS

1. No mining will occur in the southern portion of the West Fork Horse Creek floodplain. (ADA/Page 10-5)
2. Upstream adjacent properties will not be affected by mining the floodplain of the West Fork Horse Creek because IMC will provide an alternate flow way to convey waters which would otherwise have flowed down the West Fork. Downstream adjacent properties will be protected from flooding by IMC impoundment of stormwater within the capture area and the subsequent slow release of water through permitted outfall structures on the main stem of Horse Creek. (SR1/Page AI-123)

WATER SUPPLY

1. No additional ground water withdrawals will be required for the mining and reclamation of PHASE I DRI Parcels beyond that currently permitted by the Southwest Florida Water Management District. (ADA/Page 10-30)
2. The applicant will not drill any new water supply production wells in association with the Four Corners Mine Addition (Phase I) DRI site. (ADA/Page 17-1).
3. Innovative techniques have allowed the applicant to utilize recycled water "in all phases of the beneficiation flowsheet." Use of this technology will continue throughout the mining life of this addition. (ADA/Page 17-2)

WASTEWATER MANAGEMENT

1. The project will not change the daily volume of domestic or industrial wastewater generated by the Four Corners mine site. (ADA/Page 18-1)
2. There will be no domestic wastewater produced on the project site. (ADA/Page 18-1)

TRANSPORTATION

1. The expansion area will be mined using existing equipment of the Fort Green Mine. (ADA/Page 10-6).
2. There will be no change in the number of employees, schedules, or the route accessing the property. (ADA/Page 21-1)
3. The expansion area will be accessed by the two existing employee access points located at: the intersection of S.R. 37 and the Four Corners Mine/Fort Green Mine entrance road (in Polk County); and the intersection of S.R. 62 and the internal mine access road (in Hardee County). (SR1/Page AI-34)
4. No employee access points will be located along Duette Road in Manatee County. (SR1/Page AI-34)

AIR QUALITY

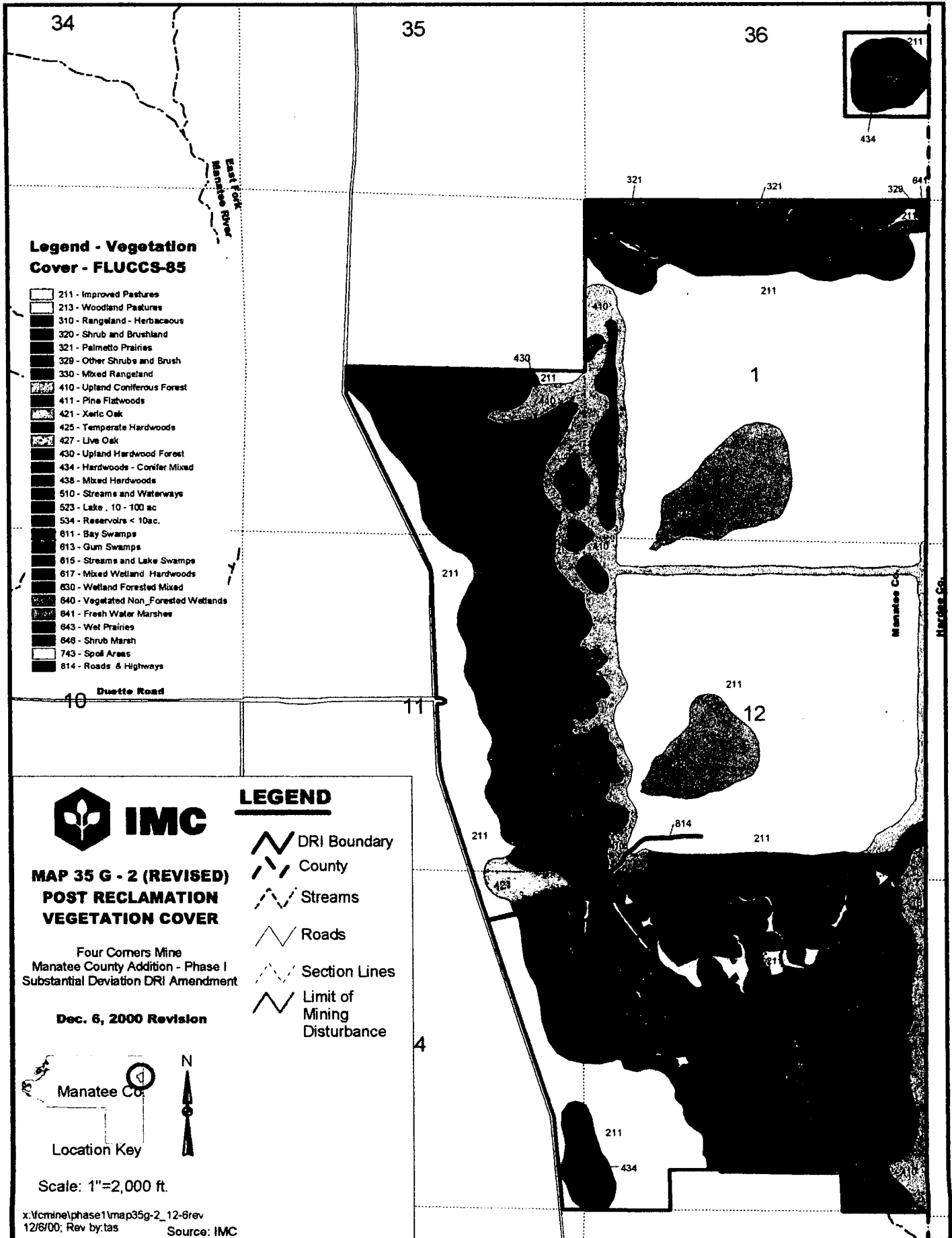
1. IMC will employ a number of conventional mining techniques to minimize the generation of fugitive dust during mining and reclamation. These measures include:
 - a. limiting the clearing of lands to be mined in advance of when necessary to prepare for mining;
 - b. Use of hydraulic slurry transport of phosphate matrix, sand, and clay;
 - c. Storage and shipment of mined lands and revegetation in accordance with state rules; and
 - d. Use of quick-germinating temporary cover crops on reclaimed land. (ADA/Page 22- 1)

HURRICANE PREPAREDNESS

The Hurricane Preparedness Plan will be updated to include the expansion area.
(ADA/Page 23-1)

MINING OPERATIONS

1. The Plan provides for the mining impact of 2,152 acres (86% of site), with no disturbance to occur on the remaining 356 acres (14% of site). (ADA/Page 10-5; 4AI/Table 10-1)
2. A maximum of 800 acres per year will be mined. (ADA/Page 10-5)
3. The clay settling areas will be reclaimed to improved pasture to maintain the agricultural value of the land. (ADA/Page 35-4)
4. The reclaimed stream channel will be contoured to mimic pre-mining gradients. The channel bottom will have a slope of one-half foot drop per 1,000 feet length, entering the property at elevation 110 feet NGVD and re-entering the undisturbed floodplain to the south at elevation 104 feet NGVD, similar to the premining and historic conditions. The average post-reclamation wetted floodplain width is 1,300 feet as compared to the existing 35-foot wide ditch. In addition, two herbaceous wetland areas have been incorporated into the stream floodplain. The bottom elevation in the marsh and the adjacent forested stream channel create a continuously flooded herbaceous pocket or pool within the floodplain. These changes will increase the water retention time and wildlife habitat area within the floodplain, and more closely resemble the historic nature of the waterway than what presently exists. (ADA/Page 35-10)
5. The reclamation of the clay-settling areas will be by the crust development method. (ADA/Page 35-13)
6. Approximately 1,154 acres will be revegetated for use as crop and pastureland, on hydraulically placed sand tailings capped with overburden, graded overburden, and crusted waste clays. (ADA/Page 35-13)
7. The mining of the upper portion of West Fork Horse Creek is scheduled to occur in years 3 & 4, to allow the mining and reclamation to occur quickly, taking the minimum amount of time. (SR2/Page 2AI-60)



Legend - Vegetation Cover - FLUCCS-85

- 211 - Improved Pastures
- 213 - Woodland Pastures
- 310 - Rangeland - Herbaceous
- 320 - Shrub and Brushland
- 321 - Palmetto Prairies
- 329 - Other Shrubs and Brush
- 330 - Mixed Rangeland
- 410 - Upland Coniferous Forest
- 411 - Pine Flatwoods
- 421 - Xeric Oak
- 425 - Temperate Hardwoods
- 427 - Live Oak
- 430 - Upland Hardwood Forest
- 434 - Hardwoods - Conifer Mixed
- 438 - Mixed Hardwoods
- 510 - Streams and Waterways
- 523 - Lake, 10 - 100 ac
- 534 - Reservoirs < 10ac.
- 611 - Bay Swamps
- 613 - Gum Swamps
- 615 - Streams and Lake Swamps
- 617 - Mixed Wetland Hardwoods
- 630 - Wetland Forested Mixed
- 640 - Vegetated Non_Forested Wetlands
- 641 - Fresh Water Marshes
- 643 - Wet Prairies
- 648 - Shrub Marsh
- 743 - Spoil Areas
- 814 - Roads & Highways

LEGEND

- DRI Boundary
- County
- Streams
- Roads
- Section Lines
- Limit of Mining Disturbance

**MAP 35 G - 2 (REVISED)
POST RECLAMATION
VEGETATION COVER**

Four Corners Mine
Manatee County Addition - Phase I
Substantial Deviation DRI Amendment

Dec. 6, 2000 Revision

Manatee Co.

Location Key

Scale: 1"=2,000 ft.

EXHIBIT I

TABLE 35-5
Reclamation Schedule

Reclamation Type	Reclamation Activity	*Time - Years
Graded Overburden	0. End of Mine use	---
	1. Contour - Earthwork	18 months
	2. Re - vegetation	6 months
	3. Growth Period	1 year
	Total Time	3 years.
Tailings Fill	0. End of Tailing fill (Mine use)	---
	1. Contour - Earthwork	18 months
	2. Re-vegetation	6 months
	3. Growth Period	1 year
	Total Time	3 years.
Clay Settling Area	0. Ditch and drain surface	4 years
	1. Settling area abandonment (End of Mine use)	---
	2. Contour - Earthwork	18 months
	3. Plant grasses	6 months
	4. Growth Period	1 year
Total Time	3 years	

* Note: Times are based on completion of all mining activities within a program or logical reclamation unit area that allows for reclamation of a sub-basin system rather than partial system.

EXHIBIT J

IMC Phosphate
Four Corners Mine
Southeast Tract Addition

TABLE 12-1
December 6, 2000 Revision
FOUR CORNERS EXTENSION DRI - PHASE I
SOUTHEAST TRACT
EXISTING AND PROPOSED LAND USE AND COVER TYPES
(AREA IN ACRES)

FLUGCS-85 CATEGORY	PRE DEVELOPMENT	UNDISTURBED AREA	AREA TO BE DISTURBED	PROPOSED RECLAMATION	TOTAL POST RECLAMATION
100 URBAN					
110 Residential					
111 Fixed Single Family	1.0		1.0		0.0
SUB TOTAL	1.0				0.0
200 AGRICULTURE					
210 Cropland and Pasture					
211 Improved Pastures	1659.1	24.4	1634.7	1054.2	1078.5
213 Woodland Pasture	25.2	0.3	24.9		0.3
SUB TOTAL	1684.3	24.7	1659.6	1054.2	1078.8
300 RANGELAND					
310 Herbaceous	7.9	4.2	3.7	2.6	6.9
320 Shrub and brushland	0.0			76.4	76.4
321 Palmetto Prairie	152.6	37.8	114.8	35.3	73.1
329 Other Shrub and Brushland	9.6	9.5	0.0		9.5
330 Mixed Rangeland	12.3		12.3	9.1	9.1
SUB TOTAL	182.4	51.5	130.9	123.4	174.9
400 UPLAND FOREST					
410 Upland Coniferous Forest				163.5	163.5
411 Pine Flatwoods	9.5	7.6	1.9	4.8	12.4
420 Upland Hardwood Forest	0.0				0.0
421 Xeric Oak	13.1		13.1	12.1	12.1
425 Temperate Hardwoods	18.6	17.5	1.1		17.5
427 Live Oak	3.1	0.3	2.8		0.3
430 Upland Hardwood Forest Continued	0.0			8.6	8.6
434 Hardwood Conifer Mixed	13.6	11.6	2.0	138.6	150.2
438 Mixed Hardwood	2.9	1.8	1.1	84.2	86.0
SUB TOTAL	60.7	38.7	22.0	411.8	450.5
500 WATER					
510 Streams and Ditches				0.9	0.9
512 Man Made Ditches and Canals	26.1	0.1	26.0		0.1
523 Lake (+10ac.)				22.7	22.7
530 Wetlands Forested Mixed					0.0
534 Reservoirs < 10 Acres	2.0	0.3	1.7		0.3
SUB TOTAL	28.1	0.4	27.7	23.6	24.1
600 WETLANDS					
610 Wetland Hardwood Forests					
611 Bay Swamps	45.7	44.6	1.2	1.3	45.9
613 Gum Swamps	14.6		14.6	14.6	14.6
615 Stream and Lake Swamps	90.4	85.5	4.9		85.5
617 Mixed Wetland Hardwoods	57.3	31.4	25.9	87.2	118.5
630 Mixed Wetland Forest	21.4	11.6	9.8	25.9	37.6
SUB TOTAL	229.4	173.1	56.3	129.1	302.1
640 Vegetated Non-Forested Wetlands				100.3	100.3
641 Freshwater Marshes	208.8	24.9	183.9	229.1	254.0
643 Wet Prairies	77.9	23.7	54.2	54.6	78.3
646 Shrub Swamps	29.2	17.9	11.3	19.1	37.0
SUB TOTAL	315.9	66.4	249.4	403.1	469.5
TOTAL WETLANDS (500s & 600s)	573	240	333	556	796
700 BARREN LAND					
743 Spoil Areas (cattle ponds)	5.7	1.2	4.5		1.2
SUB TOTAL	5.7	1.2	4.5	0.0	1.2
800 TRANSPORTATION AND UTILITIES					
814 Roads	0.2		0.2	6.8	6.8
SUB TOTAL	0.2	0.0	0.2	6.8	6.8
TOTAL FOR SITE	2508	356	2151	2152	2508

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EXHIBIT K

TABLE 35-4
November 1, 2000 Revision
Mined and Disturbed Areas
(Note: acres may not add due to rounding)

Site	Total Area	To Be Mined or Disturbed*	Total Reclaimed	Not Disturbed
Parcel 5	40	40	40	0
Parcel 6	2468	2112	2112	356
Total Amended Area	2508	2152	2152	356

* Disturbed by mining activity, but not mined (ie. Road, berms, etc.)

EXHIBIT L

Perpetual Conversation Easement
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PERPETUAL CONSERVATION EASEMENT

THIS DECLARATION OF PERPETUAL CONSERVATION EASEMENT is made this 15 day of December, 2000, by **FP ONE CORPORATION** and **FP TWO CORPORATION**, whose mailing address is 767 5th Avenue, 16th Floor, New York, NY 10153 ("Grantor") for the benefit of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, whose address is the Douglas Building, 3900 Commonwealth Blvd., Mail Station 100, Tallahassee, Florida 32399-3000, hereinafter referred to as "the Grantee"

As used herein, the term "Grantor" shall refer to the owner or successor in ownership of the lands in this Agreement, more particularly described in **Exhibits A and B** and made a part of the Agreement by this reference, hereinafter referred to as the "Protected Property", and "State of Florida" shall refer to the state board named above or any successor agency or authority which assumes or is charged with the authority and duties exercised by and imposed upon the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida on the date of execution of this Agreement.

WITNESSETH:

WHEREAS, the State of Florida has determined that protection of a planned habitat area and wildlife corridor, also known as the Integrated Habitat Network, throughout central Florida is highly desirable as in the public interest; and

WHEREAS, the Grantor's property contains property that falls within the FDEP Integrated Habitat Network; FFWCC Closing the Gaps "Study Corridor" areas and/or SWFWMD Core habitat Corridor Designation; and

WHEREAS, the Grantor and the Grantee mutually recognize the natural, scenic and special character of the Protected Property including, if any, preserved wetlands, associated uplands and the reclaimed planned habitat areas that it contains or will contain following, and as part of, the reclamation process and have the common purpose of conserving certain natural values and character of the Protected Property by conveyance to the Grantee of a Perpetual Conservation Easement and the prohibition of certain development activities, all of which shall run with the land, on, over, and across the Protected Property, which shall conserve the value, character, ecology and hydrological integrity; shall conserve and protect the animal and plant populations; and shall prohibit certain further development activity on the Protected Property, hereinafter collectively referred to as "the conservation purposes," and

WHEREAS, the Grantor has voluntarily elected to enter into this Perpetual Conservation Easement to provide protection to the Protected Property; and

WHEREAS, the Grantor will provide maintenance for the Protected Property during the time of its mining and reclamation activity as specified herein and under Section 378.035(6)(a) Florida Statutes, the State of Florida or its designee will provide maintenance for the Protected Property thereafter;

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WHEREAS, the Grantor and the Grantee agree that the DEP, Bureau of Mine Reclamation, will be the agency responsible for monitoring this Perpetual Conservation Easement.

NOW, THEREFORE, the Grantor hereby voluntarily creates and assigns a Perpetual Conservation Easement on the Protected Property together with the prohibition of certain development activities, except as reserved herein, on, over, and across the Protected Property for the purposes as set forth above, and pursuant to Section 704.06, Florida Statutes.

I. GENERAL PROVISIONS

1. **Duration of Perpetual Conservation Easement.** The Grantor grants unto Grantee and its successors and assigns this Perpetual Conservation Easement to have and to hold in perpetuity. This is an easement in gross, runs with the land and is enforceable by the Grantee against the Grantor, its successors and assigns, lessees, agents, licensees, and subsequent grantees.

2. **Successors and Assigns.** The terms Grantor and Grantee as used herein shall include, without limitation, the successors and grantees of the Grantor and Grantee and the covenants, terms, conditions, and restrictions of the Perpetual Conservation Easement shall be binding upon and inure to the benefit of such successors and shall continue as a servitude running with the land in perpetuity with the Protected Property.

3. **Legal Description. Perpetual Conservation Easement to be Granted at Time Mining is Initiated:** IMC Phosphates Company, on behalf of Grantor, shall prepare an accurate legal description of the Protected Property as described in **Exhibit A** of this Agreement which shall be recorded in the Public Records of Manatee County, Florida as an amendment to this Instrument. This Conservation Easement on the areas in **Exhibit A** not to be disturbed by mining or mining related activities—covering about 182 acres—shall be recorded within six (6) months of the execution of this Agreement.

Perpetual Conservation Easement to be Granted at Time of Reclamation Release: IMC Phosphates Company, on behalf of Grantor, shall prepare an accurate legal description of the Protected Property as described in **Exhibit B** of this Agreement which shall be recorded in the Public Records of Manatee County, Florida as an amendment to this Instrument. This Conservation Easement on reclaimed areas in **Exhibit B**—covering about 339 acres—shall be recorded within six (6) months of the release of reclamation and/or mitigation responsibility by all applicable regulatory agencies.

4. **Violations, Remedies, and Enforcement.** In the event of a violation of the terms and conditions hereof, the Grantor or Grantee shall give written notice to the other party. The other party shall have the right to cease or cure the violation without penalty. If the party in violation does not cease or cure the violation within thirty (30) days after receipt of such written notice, the terms and conditions hereof may be enforced by the complaining party by suit for injunctive relief or for other appropriate remedy at law or equity to require the restoration of the Protected Property to the condition that existed prior to any injury. If Grantee reasonably determines that circumstances require immediate action to prevent or mitigate significant damage to the Protected Property, Grantee may pursue its remedies under this paragraph without waiting for the period provided for cure to expire. The remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. In the event such violation cannot be cured within this thirty (30) day period and the party in violation is expeditiously proceeding with said cure, then the time period shall be extended by such a time as would be reasonable to complete the cure.

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5. **Amendment.** The terms and conditions hereof may be modified only by mutual agreement in writing between the Grantor and the Grantee or their respective successors or assigns.
6. **Future Consistent Uses.** The purpose of this Perpetual Conservation Easement is to preserve the Protected Property in its current condition (natural land) or reclaimed condition (reclaimed land), and its scenic, open, agricultural or wooded conditions as the case may be and to preserve existing or reclaimed uses as habitat for fish, wildlife, and plants. Future uses consistent with these purposes shall be permitted. Except where otherwise provided for herein, future uses inconsistent with these purposes shall be prohibited.
7. **Liability/Indemnification.** The Grantee agrees to indemnify and hold the Grantor harmless from any and all liability, loss, damage, expense, or judgment (including attorney's fees and costs) arising out of any negligent or willful action or activity of the Grantee, its agents, its employees, or other invitees while on the Protected Property or exercising its right hereunder. The Grantee further agrees to indemnify and save the Grantor harmless from any and all liability, loss or claim resulting from a personal injury or death to agents or employees or any other party on the Protected Property at the invitation of the Grantee or its assigns. Nothing contained herein shall be construed as an indemnity or as a waiver of sovereign immunity enjoyed by the Grantee, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims against the State. Further, the Grantor agrees to indemnify and hold the Grantee harmless from any and all liability, loss, damage, expense, or judgment (including attorney's fees and costs) arising out of any grossly negligent or willful action or activity of the Grantor, its agents, its employees, or other invitees while on the Protected Property or exercising its right hereunder.
8. **Easement Documentation Report.** Grantor and Grantee acknowledge that an Easement Documentation Report (Report) of the Protected Property has been or will be prepared by IMC Phosphates Company on behalf of the Grantor, within six (6) months following the date of the execution of this Perpetual Conservation Easement for the areas described in **Exhibit A** and within six (6) months following the date of the release of reclamation responsibility for the areas described in **Exhibit B**. The Report, after approval by the Grantee and Grantor, shall serve as an accurate representation of the physical, ecological and biological condition of the Protected Property at the time of this grant. The Report will be placed and retained on file with Grantee as a public record and a copy will be provided to Grantor. In the event a controversy arises with respect to the nature and extent of the physical or biological condition of the Protected Property, the parties may utilize the Report and any other relevant documents, surveys, photographs or other information to assist in the resolution of the controversy. The Report, however, shall serve as the principal baseline for the biological, ecological, and physical condition of the Protected Property on the date of this Perpetual Conservation Easement. The Report and other documents, surveys, photographs or other information documenting the status of the Protected Property at the date of this grant provided to Grantee by Grantor are available for inspection at the offices of the Division of State Lands, Department of Environmental Protection and/or Department of Environmental Protection, Bureau of Mine Reclamation in Tallahassee, Florida, and are incorporated herein and made a part of the Perpetual Conservation Easement by reference. The Grantor shall have no obligation to improve the ecological condition above that which is documented in the Easement Documentation Report.
9. **Ad Valorem Taxation/Assessments.** The Grantor agrees to make timely payment of all ad valorem taxes on its interest in the Protected Property so long as it retains fee simple title to the Protected

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Property. The Grantor and Grantee mutually acknowledge that the Protected Property will continue to be utilized for certain agricultural uses as set forth in this Perpetual Conservation Easement and as such the Grantor shall continue to be entitled to file for "Greenbelt/ Agricultural" ad valorem tax status or such other appropriate tax status. Further, the Grantor agrees to pay any assessments, fees or charges of whatever description levied against the Protected Property by competent authority.

10. **Recording.** Pursuant to Section 704.06 Florida Statutes, IMC Phosphates Company, on behalf of the Grantor, shall record the Perpetual Conservation Easement in the Official Records of Manatee County, Florida and pay the documentary and/or recording fees.

11. **Warranty and Title.** The Grantor hereby warrants that it is fully vested with fee simple title to the Protected Property subject to taxes for 2000 and subsequent years, restrictions, reservations and easements of record and unrecorded lease to IMC Phosphates Company.

12. **Notices.** Any notice, demand, consent, or communication that either party is required to give to the other hereunder, shall be in writing and either served personally by hand delivery, by confirmed overnight courier, or by registered or certified mail, postage prepaid, addressed as follows:

To the Grantor:	FP One Corporation FP Two Corporation 767 5 th Avenue, 16 th Floor New York, NY 10153
With Copy to:	Patricia A. Petruff, Esquire Dye, Deitrich, Prather, Petruff & St. Paul, P.L. P.O. Box 9480 Bradenton, FL 34206
To the Grantee:	Secretary, Department of Environmental Protection 3900 Commonwealth Blvd., MS 10 Tallahassee, FL 32399
With Copy to:	Director, Division of State Lands Department of Environmental Protection 3900 Commonwealth Blvd., MS 100 Tallahassee, FL 32399
With Copy to:	Bureau Chief, Bureau of Mine Reclamation Department of Environmental Protection 2051 E. Dirac Drive Tallahassee, FL 32310

13. **No Waiver of Regulatory Authority.** Nothing herein shall be construed to restrict or abrogate the lawful regulatory jurisdiction or authority of the Grantee or other federal or state agencies.

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14. **Approval or Concurrence.** The parties agree that each party will respond within a reasonable time and a reasonable manner when approval or concurrence or agreement is requested by the other party. If any party in good faith believes that another party has not responded in a reasonable time or is unreasonably withholding approval or concurrence, the matter may immediately be submitted for arbitration at the discretion of the party claiming damages.

15. **Enforceability.** This Perpetual Conservation Easement may be enforced by Grantee—as provided in Section 704.06, Florida Statutes—and by Grantor.

16. **Maintenance Responsibility.** Maintenance of the Protected Property as subsequently defined by legal description as required in paragraph 3 above, will be the responsibility of IMC Phosphates Company, on behalf of Grantor, through the time reclamation is released by all applicable regulatory agencies, and thereafter will be the responsibility of Grantee.

II. RIGHTS RESERVED TO THE GRANTOR

The Grantor reserves in perpetuity, and reserves for its successors and assigns in perpetuity, the following reserved rights, which may be exercised at any time in accordance with the provisions of this Perpetual Conservation Easement:

1. **Livestock Grazing.** The Grantor shall have the right to use of the Protected Property for the breeding, raising, pasturing and grazing of livestock provided that these activities are consistent with sustainable native range management practices (for example, practices described in “Determining Grazing Capacity for Native Range, Fact Sheet FRC-31” by George W. Tanner 1983, RFAS-CES). “Sustainable native range practices” are defined as those which allow native grasses and other native forage species to regenerate such that grazing capacity of the land is naturally renewed. Alternatively, participation in the Florida Forest Stewardship Program administered by the Florida Department of Agricultural and Consumer Services Division of Forestry on or after the date of this Agreement, or a similar program approved by FDEP that considers sustainable grazing shall also satisfy the required standards for such activities. The Grantor has the right to excavate livestock ponds and establish and construct fences, livestock pens, and any and all other related structures and activities necessary for the livestock operation, subject to obtaining all consents and permits required therefore. Excavation of livestock ponds shall be restricted to upland areas and shall not be connected to waters of the state. Control burning as part of range management, using best management practices, is allowable.
2. **Sale of Protected Property.** Grantor, its successors and assigns, shall have the right to sell or otherwise convey the Protected Property.
3. **Sustainable Harvesting.** Sustainable opportunistic harvesting shall be defined as the collection of naturally produced and renewable foods, plants, pharmaceuticals, or other materials such as fruits, seeds, flowers, herbs and wetland plant species, and shall be allowed in a manner that allows for the resource to regenerate naturally without significantly reducing the potential for future harvest. This shall not apply to exotic or non-native plants and species.
4. **Listed Plant and Wildlife Species Relocation.** Grantor shall have the right to relocate listed plant and wildlife species from offsite locations to appropriate areas within the Protected Property in accordance with all applicable federal, state, and local laws, rules and regulations.

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5. **Haying and Sodding.** Haying and sodding shall be permitted only in upland pastures and/or disturbed areas as established in the Easement Documentation Report required by Section I, paragraph 8 above.
6. **Silviculture.** Grantor shall have the right to conduct logging and associated activities consistent with sustainable silviculture practices in accordance with the most current Best Management Practices. "Sustainable silviculture" is defined as logging practices that maintain a canopy structure of trees typical of natural central Florida flatwoods without damaging the ability of native ground cover, shrubs or trees to maintain their ecological integrity and intact community structure and the ability to successfully reproduce or regenerate. Alternatively, participation in the Florida Forest Stewardship program administered by the Florida Department of Agriculture and Consumer Services, Division of Forestry, or a similar program approved by Florida Department of Environmental Protection (DEP) that considers sustainable forestry, shall also satisfy the required standards for such activities. Notwithstanding the above, no live cypress or hardwood trees shall be harvested.
7. **Hunting and Fishing.** The Grantor retains all hunting and fishing rights, including the right to lease same, as well as the right to control nuisance animals on the Protected Property provided that all hunting, hunting leases, and associated facilities shall be administered in a manner consistent with current management practices; or in the alternative pursuant to a wildlife management plan, for hunting and fishing purposes only, which is mutually acceptable to the Florida Fish and Wildlife Conservation Commission and the Grantor.
8. **Recreational Activities.** Grantor, its successors or assigns, shall have the right to utilize the property for all resource-based recreational activities including, but not limited to, hunting, fishing, nature parks, boating, horseback riding, swimming, hiking and other related activities and for facilities related to such uses.
9. **Environmental Education.** Grantor, its successors and assigns, shall have the right to utilize the property for environmental resource or environmental educational facilities which do not significantly disturb the Protected Property.
10. **Quiet Use and Enjoyment.** Grantor retains all rights to use the Protected Property provided such use is not inconsistent with any other provisions of this document.
11. **Permitting Wells.** Grantor shall have the right to apply for the construction and continued operation of wells on the Protected Property in accordance with all applicable federal, state, and local laws.
12. **Consistent Uses.** The parties hereto understand and agree that the Grantor is retaining all rights to certain real property which is contiguous to and/or near the Protected Property. Nothing contained herein shall restrict or otherwise prohibit the Grantor from utilizing existing features, uses or areas of the Protected Property in a manner consistent with the use of the contiguous real property which has been retained by the Grantor. For example, in the event Grantor cultivates a crop on the contiguous property where all rights have been retained, Grantor shall have the right to transport such crop across the Protected Property utilizing existing roads.

III. PROHIBITED / RESTRICTED USES

EXHIBIT L

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1. **Construction.** Unless otherwise provided for in this document, there shall be no further new construction of or placement of new buildings, roads, signs, billboards, or other advertising, or other structures on or above the ground of the Protected Property, except that Grantor shall have the right to excavate livestock ponds and to maintain any and all existing buildings, roads, fences, ponds, and drainage ditches, and to construct and operate barns, fences, dirt access roads for maintenance purposes and other structures, facilities, wells, and/or activities necessary or useful to silviculture, livestock grazing, agricultural purposes, and related activities, in appropriate areas, subject to obtaining all consents and permits lawfully required therefore. "Maintenance" of roads, ponds, and drainage ditches shall include the right to clear, dredge, improve and/or reconstruct roads, ponds, and drainage ditches of similar sizes and types on or near the current locations.
2. **Transfer of Development Rights.** There shall be no transfer of any development rights or density credits from the Protected property to any other property, including but not limited to properties lying within the adjacent and surrounding area owned by the Grantor, any other person, entity or like. Notwithstanding the foregoing, any and all rights reserved to the Grantor, as set forth herein, shall remain in full force and effect on the Protected Property.
3. **Dumping.** Except as provided by law, there shall be no dumping or placing of soil, trash, liquid or solid waste (including sludge), or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants, including, but not limited to, those as defined by the Resource Conservation and Recovery Act, 42 USC Section 6901-6991, or the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC Section 9601-9674, as amended by the Superfund Amendments and Reauthorization Act of 1986, or any Florida Statute defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants (hereinafter collectively referred to "Contaminants") on the Protected Property. However, this provision shall not be construed to prevent the deposit of animal wastes generated on the Protected Property.
4. **Exotics.** There shall be no planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC), except pasture grasses approved for domestic use. There shall be control of nuisance exotics or non-native plants on the Protected Property to the extent that it is economically practical in the Grantor's opinion. Management and control applies to the following: Brazilian Pepper, Melaleuca, Japanese and Old World Climbing Fern, Skunk Vine, Tropical Soda Apple, Cogon Grass, Torpedo Grass, Air Potato, and Kudzu.
5. **Pesticides/Herbicides.** Only pesticides and herbicides approved by the United States Department of Agriculture may be used on the Protected Property and such pesticides and herbicides shall be used only in accordance with current label instructions and in accordance with current governmental laws and regulations.
6. **Endangered Species.** There shall be no intentional adverse impacts to threatened or endangered species, or species of special concern which have been specifically identified as such by any United States or State of Florida agency.
7. **Archaeological, Cultural or Historic Sites.** There shall be no intentional destruction or damage to any sites of archaeological, cultural, or historical significance, when any such sites have been specifically identified as such by any United States or State of Florida agency, unless authorized or approved by the appropriate official of the State of Florida having jurisdiction thereover.

Perpetual Conversation Easement

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8. **Citrus, Truck/Row Crops.** None of the Protected Property contains citrus, truck/row crops at the inception of the Conservation Easement. Initiation of citrus production activity and/or the planting of truck crops or row crops on the Protected Property is hereby prohibited.

IV. RIGHTS OF THE GRANTEE

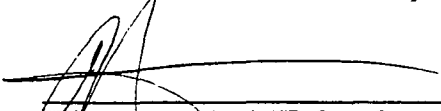
1. **Monitoring for Conservation Easement Compliance.** The Grantor shall not interfere with the DEP in the monitoring and enforcement of the terms and conditions hereof. The DEP and its agents, employees and assigns, at reasonable intervals, at reasonable times, and upon 10 days written notice, may enter upon, over and across the Protected Property on official business for the purpose of monitoring compliance with the terms and conditions thereof so long as such entry does not interfere with the rights and uses of the Protected Property retained by the Grantor.

2. **Right to Maintain Protected Property.** In the event the Grantor ceases to maintain the Protected Property in accordance with this Perpetual Conservation Easement or in the event the Grantee elects to perform more extensive maintenance than the Grantor is obligated to perform, the Grantee and/or DEP shall have the right to enter upon the Protected Property, to take any and all necessary and appropriate actions to maintain or enhance the resource values of the Protected Property, without forfeiting any other rights or remedies granted under this Conservation Easement.

3. **Public Access.** The Grantee shall not have the right to allow the general public on the Protected Property at any time without the prior written consent of the Grantor.

IN WITNESS WHEREOF, Grantor has executed this Agreement on this 1st day of December, 2000.


Executed and delivered in our presence:



Witness as to both FP One Corporation
and FP Two Corporation
Print name Pete Mauliken

FP ONE CORPORATION, a
Delaware corporation

BY: James P. Puyton
as VICE PRESIDENT



Witness as to both FP One Corporation
And FP Two Corporation
Print name Debra Segal

FP TWO CORPORATION, a
Delaware corporation

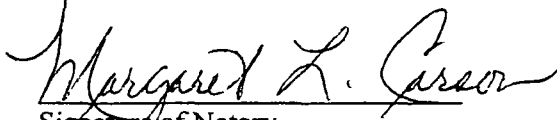
BY: James P. Puyton
as VICE PRESIDENT

STATE OF NEW YORK
COUNTY OF New York

EXHIBIT L

Perpetual Conversation Easement
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The foregoing instrument was acknowledged before me this 15th day of December 2000, by JAMES P. PEYTON, VICE PRESIDENT of FP ONE CORPORATION and FP TWO CORPORATION, Delaware corporations, on behalf of the corporation. He/~~she~~ is personally known to me. _____ or has produced _____ as ~~identification.~~


Signature of Notary

MARGARET L. CARSON
Notary Public, State of New York
No. 01CA6047240
Qualified in Queens County
Certificate Filed in New York County
Commission Expires August 28, 2002

Executed and delivered in our presence:

**BOARD OF GRANTEE TRUSTEES OF THE
INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA**

By: _____
Director, Division of State Lands,
Department of Environmental Protection,
As agent for and on behalf of the Board of
Trustees of the Internal Improvement Trust
Fund of the State of Florida.

WITNESS (Signature)

WITNESS (Printed Name)

Reviewed and approved by the Office of
General Counsel this ____ day of
_____, 2000.

WITNESS (Signature)

WITNESS (Printed Name)