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R. B. SHORE

2011 SEP 24 PM 12:30

ORDINANCE 04-58  
WINGATE CREEK MINE DRI

CLERK OF DISTRICT COURT  
MANATEE CO., FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND USE; AMENDING AND RESTATING THE DEVELOPMENT ORDER PURSUANT TO CHAPTER 380.06, FLORIDA STATUTES, FOR THE WINGATE CREEK MINE DEVELOPMENT OF REGIONAL IMPACT, DRI #4 (ALSO KNOWN AS TBRPC DRI #42/95); PROVIDING FINDINGS OF FACT; PROVIDING CONCLUSION OF LAW; PROVIDING FOR THE EFFECT OF THIS ORDINANCE AND RECONCILING OF PRIOR APPROVALS; EXTENDING THE LIFE OF MINING (A.K.A. BUILDOUT AND TERMINATION DATES) FOR THIS DRI BY 7 YEARS TO JULY 31, 2011 FOR A CUMULATIVE EXTENSION OF 13.5 YEARS; EXTENDING THE LIFE OF RECLAMATION FOR THIS DRI BY 7 YEARS TO DECEMBER 31, 2015 FOR A CUMULATIVE EXTENSION OF 16 YEARS; EXTENDING THE EXPIRATION DATE OF THE AUTHORIZED TRUCK HAULING ROUTES BY 7 YEARS TO JULY 31, 2011 FOR A CUMULATIVE EXTENSION OF 13.5 YEARS; AMENDING THE D.O. TO DELETE A PREVIOUSLY APPROVED HAUL ROUTE WEST ON SR 64 TO THE PINEY POINT PLANT; THE D.O. TO DELETE A PREVIOUSLY APPROVED HAUL ROUTE EAST ON SR 64 TO HARDEE COUNTY; AMENDING THE D.O. TO CHANGE THE DESTINATION FOR A PREVIOUSLY APPROVED HAUL ROUTE TO THE NORTH IN POLK COUNTY BY DELETING THE MULBERRY PLANT ON SR 60, ADDING THE CARGILL BARTOW PLANT ON SR 60, AND ADDING THE CARGILL GREEN BAY PLANT ON CR 640; DELETING 80.75 ACRES ALONG THE EAST SIDE OF LOGUE ROAD [KNOWN AS TRACT WC-4(A)] FROM THIS DRI AND AMENDING THE LEGAL DESCRIPTION TO REFLECT THIS CHANGE IN ACREAGE; AMENDING THE D.O. TO CHANGE THE NAME OF THE MINE OWNER TO CARGILL FERTILIZER, LLC; AMENDING THE D.O. TO UPDATE DEFINITIONS, TERMINOLOGY, DEPARTMENTAL AND AGENCY REFERENCES, ESTABLISHING NEW OR MODIFIED CONDITIONS OF APPROVAL, AND OTHER MINOR CHANGES TO ENSURE THE DEVELOPMENT ORDER WILL BE INTERNALLY CONSISTENT WITH ALL CHANGES PROPOSED BY THE APPLICANT; AMENDING EXHIBIT E TO REFLECT THE ABOVE CHANGES AND TO REVISE THE TRUCKING SCHEDULE; AMENDING MAP H TO REFLECT THE ABOVE CHANGES; ESTABLISHING GENERAL TERMS AND CONDITIONS; INCORPORATING A NEW LEGAL DESCRIPTION; ESTABLISHING DEADLINES FOR COMMENCEMENT OF DEVELOPMENT; ESTABLISHING RESTRICTIONS ON DOWN ZONING; PROVIDING THAT THIS ORDINANCE SHALL BE BINDING UPON THE DEVELOPER\*; PROVIDING FOR COMPLIANCE WITH CODES AND ORDINANCES; PROVIDING FOR RENDITION; PROVIDING FOR NOTICE OF RECORDING; PROVIDING FOR NO CODIFICATION OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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FILED  
SEP 21 PM 1:10  
CLERK OF DISTRICT COURT  
MANATEE CO., FLORIDA

Ordinance 04-58 - Wingate Creek Mine DRI

**WHEREAS**, Cargill Fertilizer LLC., as successors in interest to Nu-Gulf Industries, Inc., Beker Phosphate Corporation, and Beker Industries Corporation possesses an Amended Development of Regional Impact Development Order from Manatee County, R-88-236; and

**WHEREAS**, Resolution R-88-236 also amended the Master Mine Plan and Operating Permit for the Wingate Creek Mine; and

**WHEREAS**, The BOCC on July 17, 1990, R-90-60, approved an amendment to the Development Order deleting property from the mine; and

**WHEREAS**, on August 14, 1990, Manatee County approved Resolution R-90-147 adopting an amendment to the Amended Development Order approved by R-88-236 to allow the transport of phosphate rock by truck via an approved haul route; and

**WHEREAS**, on November 5, 1991, Manatee County approved Resolution R-91-250 repealing R-91-26 and adopting an amendment to the Development Order for the Wingate Creek Mine DRI and amending the Master Mine Plan and Operating Permit for this mine; and

**WHEREAS**, on July 25, 1996, Manatee County approved Resolution R-96-188 deleting property from the legal description of the Development Order for the Wingate Creek Mine DRI as a result of the Manatee County Archery and Gun Club settlement with Manatee County; and

**WHEREAS**, on December 16, 1997, Manatee County approved Resolution R-97-241 extending the expiration date for the Wingate Creek Mine Development Order to July 31, 2004, extending the life of the authorized haul routes to July 31, 2004, and the completion of mining reclamation to December 31, 2008; and

**WHEREAS**, on December 16, 1997, Manatee County approved Resolution R-97-242, amending the Master Mine Plan and Operating Permit to conform to the amended Development Order; and

**WHEREAS**, on November 24, 1998, Manatee County approved Resolution R-98-182 approving the use of an additional haul route between the mine and Mulberry, Florida using Duette Road; and

**WHEREAS**, on July 27, 1999, Manatee County approved Resolution R-99-89 approving temporary use of the Duette Road haul route until July 31, 1999 and before certain improvements to the State Road system were complete; and

**WHEREAS**, The Wingate Creek Mine shut down operations in December of 1999 and has remained closed since that time; and

**WHEREAS**, ownership of the Wingate Creek Mine subsequently passed to Cargill Fertilizer, LLC on March 22, 2004; and

**WHEREAS**, on May 5, 2004, Cargill Fertilizer, LLC filed a NOPC 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 Council, the Central Florida Regional Planning Council, and Florida Department of Community Affairs were provided copies of the Notice of a Proposed Change by Cargill Fertilizer, LLC and were therefore afforded the opportunity to comment on the proposed change; and

**WHEREAS**, the proposed changes are presumed to be a Substantial Deviation pursuant to Sections 380.06(19)(c) and 380.06(19)(e)3. Florida Statutes; and

**WHEREAS**, the Department of Community Affairs and Florida Department of Transportation have no objection to the proposed change; and

**WHEREAS**, the Planning Commission has reviewed the Application for Amendment (NOPC) and has filed a recommendation on the NOPC with the Board of County Commissioners; and

**WHEREAS**, the Board of County Commissioners of Manatee County has on August 24, 2004, held a duly noticed public hearing on the amendment to the Wingate Creek 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

**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, AS FOLLOWS:**

**SECTION 1. FINDINGS OF FACT:**

The Board of County Commissioners after considering the testimony, evidence documentation, the recommendation and findings of the Planning Commission, and all other matters presented to the Board at the public hearing, hereby makes the following findings of fact:

- A. All recitals preceding this section are adopted as findings of fact.
- B. Cargill Fertilizer LLC, as successor in interest to Nu-Gulf Industries, Inc., Beker Phosphate Corporation, and Beker Industries Corporation possesses an Amended Development of Regional Impact Development Order from Manatee County (R-88-236), previously submitted to Manatee County, Florida, an Application for Development Approval (ADA) and Sufficiency Responses which were marked as Composite Exhibit and incorporated by reference into R-88-236, Notices of Proposed Change for Resolutions R-90-60, R-90-147, R-91-250, R-96-188, R-97-241, R-98-182, and R-99-89, and has also submitted the requested amendment identified as Ordinance 04-58. Hereinafter, the word Application shall mean the ADA, the Sufficiency Responses filed, the Notices of Proposed Change for Resolutions R-90-60, R-90-147, R-91-250, R-96-188, R-97-241, R-98-182, and R-99-89 and the requested change Ordinance 04-58 and other exhibits duly submitted and recorded for a project to be known as Wingate Creek Mine Development of Regional Impact (DRI).
- C. The real property which is the subject of this Application is legally described as set forth in Section 5 of this Ordinance.
- D. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for an amendment to and restatement of an approved Development of Regional Impact, known as the Wingate Creek Mine DRI, as it relates to the real property described in Section 5 of this Ordinance, pursuant to Section 380.06, Florida Statutes (FS).
- E. The Board of County Commissioners held a Public Hearing on August 24, 2004 regarding the proposed amendment to an approved Development of Regional Impact described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, the Manatee County Land Development Code and has further considered the information received at Public Hearing.

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- F. The proposed amendment to and restatement of Development of Regional Impact regarding the property described in Section 5 herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01 as amended, the 2020 Manatee County Comprehensive Plan.
- G. The proposed development is not in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.
- H. The authorized agent for the Wingate Creek Mine DRI is Carol Masio McGuire, Holland & Knight LLP, Suite 1200, 1401 Manatee Avenue West, Bradenton, Florida 34205-6702.
- I. The owner of the property is Cargill Fertilizer LLC.
- J. A comprehensive review of the impact generated by the development has been conducted by the departments of Manatee County, the Tampa Bay Regional Planning Council (TBRPC), and the Department of Community Affairs (DCA).
- K. The proposed changes filed by Cargill Fertilizer, LLC on May 5, 2004, as approved, are presumed to be a Substantial Deviation to the Wingate Creek Mine DRI. However, upon consideration of the Development Order conditions to address the identified issues, TBRPC has determined in its NOPC report approved June 14, 2004, that the applicant has provided sufficient information to rebut the presumption of a Substantial Deviation and that no unmitigated regional impacts would be anticipated as a result of this modification.

**SECTION 2. CONCLUSIONS OF LAW:**

- A. Based upon the previous findings of fact and the following conditions of development approval, the Board of County Commissioners of Manatee County reaches the following conclusions of law:
  - 1. The proposed development of the Wingate Creek Mine is consistent with the local land development regulations and is consistent with the State Comprehensive Plan, the Tampa Bay Regional Planning Council's Strategic Regional Policy Plan, and the Manatee County Comprehensive Plan.
  - 2. The proposed development of the Wingate Creek Mine is consistent with the comments of the Tampa Bay Regional Planning Council as approved on June 14, 2004 and those of the Department of Community Affairs dated June 9, 2004, as conditioned herein.

3. These proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in these proceedings, Cargill Fertilizer, LLC is authorized to conduct development as described herein, subject to the conditions, restrictions, and limitations set forth below.
4. The review by the County, the TBRPC, the DCA, and other participating agencies and interested citizens reveals that impacts of the development are adequately addressed pursuant to the requirements of Chapter 380, F.S., within the terms and conditions of this Ordinance and the Application. To the extent that the Application is inconsistent with the terms and conditions of this Ordinance, the terms and conditions of this Ordinance shall prevail.

### **SECTION 3. EFFECT OF ORDINANCE; RECONCILE INTO ONE DOCUMENT**

This ordinance constitutes the amended and restated Development Order for the development of the property known as Wingate Creek Mine by Cargill Fertilizer, LLC. All prior development orders for the Wingate Creek Mine are superceded by this Ordinance, except to the extent that a condition of or exhibit to a prior development order is specifically and expressly preserved hereby. In the text of this Ordinance, this Ordinance may sometimes be referred to as the "Development Order" or "Order", and Cargill Fertilizer, LLC may be referred to as "Cargill" or the "Developer". This Development Order represents a codification of the existing approval for the project integrating those changes proposed in this Substantial Deviation Determination and approved by the Board of County Commissioners into a single Development Order and is for administrative convenience and is not intended to provide a new point of entry for current conditions and requirements of this project that are not related to this Notice of Proposed Change.

### **SECTION 4. DEVELOPMENT COMPONENTS AND CONDITIONS.**

#### **A. EXISTING REQUIREMENTS**

The development of Cargill's Wingate Creek Mine shall be in conformity with the provisions of the ADA dated October 11, 1974 (which was attached as Exhibit C to Resolution R-88-236); the Application for Amendment filed in 1983 (which was attached as Exhibit D to Resolution R-88-236); and the amended Master Mining Plan which was required under R-88-236, except as all of the above may be expressly modified by the terms and conditions of this Amended Development Order or by subsequent ordinances or resolutions of the County.

## B. TRANSPORTATION MATTERS

1. Cargill is authorized to transport up to 2.0 million dry tons per year of phosphate rock by truck from its Wingate Creek Mine to customers via the haul routes and subject to the tonnage limitations listed below:

### HAUL ROUTE:

- A. Up to 2.0 million tons per year from the Wingate Creek Mine road which joins into Duette Road, north to State Road 62, west to State Road 37, north to Polk County Road CR 640, then east to the Cargill Green Bay phosphate plant.
- B. Up to 2.0 million tons per year from the Wingate Creek Mine road which joins into Duette Road, north to State Road 62, west to State Road 37, north to State Road 60, then east to the Cargill Bartow phosphate plant.

Trucks will return along the same described haul routes until July 31, 2011.

2. The trucking operation approved herein shall be conducted in accordance with Exhibit E, which is attached hereto and by reference incorporated herein.
3. Weigh scales shall be maintained at Cargill's Wingate Creek Mine beneficiation facility to insure compliance with the load limits set forth above. Cargill shall, upon reasonable notice, make available for inspection by the Director of the Manatee County Environmental Management Department (the "Director") the weight scale records. Such records shall be retained for a period of five years.
4. Cargill shall require that its hauler prevent debris from leaving trucks, full or empty, during their travel on the haul route.
5. Cargill shall provide sufficient funds to the Manatee County Sheriff's Department in order to monitor the activities of Cargill's trucks in Manatee County to determine their compliance with the terms and conditions of the Amended Development Order and to enforce highway regulations. These funds shall be in addition to those for safety monitors to be provided by Cargill's carrier as outlined in Exhibit E. Cargill shall notify the Sheriff's Department of the trucking operation schedule and of any changes to the schedule lasting more than twenty-four hours. The County shall provide

Cargill an invoice for the portion of the Sheriff's Department time spent monthly on SR 64 during those times that the trucks are operating on that portion of the Haul Route. The invoice shall be accompanied by sufficient documentation to verify times and locations. The amount to be reimbursed shall be the total of those hours spent on SR 64 multiplied by an hourly rate to be set by the Manatee County Sheriff, which amount shall cover the costs of the deputy's salary, vehicle capital and operating costs, equipment capital and operating costs, and overhead expenses. The smallest billable time unit shall be a quarter of an hour.

6. Cargill shall be responsible for its phosphate rock carrier providing the County with a quarterly report certified by the person in charge of the trucking operation. This report will list all accidents in which trucks carrying rock for Cargill were involved, the date and time of the accident, the cause of the accident, the name of the driver involved, the estimated amount of property damage, the number of persons involved, whether hospitalization was required and any other pertinent data. All reports submitted to or prepared by the Florida highway patrol shall be provided to the Manatee County Environmental Management Department along with the quarterly report.
7. Cargill shall be responsible for its carrier's implementation of an inspection program to insure that all vehicles and appurtenant equipment used on the Haul Route are operated in a safe and sound manner. At a minimum, the vehicles and equipment components tabulated in Exhibit E shall be inspected at weekly intervals. Any defects in the vehicles and equipment and dates they were discovered shall be noted on the inspection form and so shall the date on which each defect was corrected. The vehicles shall receive a periodic preventive maintenance check at ten thousand mile intervals. The Director, or his designee, shall be authorized to inspect the records of the vehicle inspection program maintained by Cargill or its carrier upon reasonable notice.
8. Cargill shall assure that any trucks hauling for Cargill along the Haul Route shall be identified by a Cargill sign which is located on the trailer tailgate. This sign will be kept clean and legible.
9. In the event of a spill along the Haul Route, Cargill's carrier shall immediately contact the Florida Department of Transportation and the Director of the Manatee County Department of Public Safety. Cargill shall be responsible for ensuring that its carrier restores, at its own expense, the spill site to the condition at which it existed prior to the spill.



10. Cargill shall comply with any additional transportation conditions and restrictions which the County may require in any further amendment to or in connection with the Amended Master Mine Plan or Operating Permit.
11. Cargill shall complete the following permanent improvements to the transportation system before any trucking from the Wingate Creek Mine recommences:

At the 90 degree turn of Duette Road (mile 5):

- a. Cargill Fertilizer, LLC shall provide designs for and construct geometric improvements to this curve as approved by the Manatee County Transportation Department. At a minimum, the radius of the curve shall be no less than 1.250';
  - b. Cargill shall be responsible to reimburse Manatee County for all costs incurred by the County associated with the acquisition of any right-of-way necessary for Cargill to construct these improvements. Alternatively, Cargill may elect to purchase the land directly from the owner(s) and construct the required improvements; and
  - c. Cargill Fertilizer, LLC shall install new temporary and permanent signs as specified by the Manatee County Transportation Department.
12. For the northern 3.7 miles of Duette Road, Nu-Gulf reconstructed this portion of the roadway pursuant to previous Development Order requirements. Cargill shall not have any further obligation with regard to this segment so long as it is in better condition after completion of mining activity. Nu-Gulf previously documented the existing conditions of the roadway in a manner acceptable to the Manatee County Transportation Department. Upon completion of mining activity, Cargill shall rebuild the Duette Road roadway to existing conditions. For the portion of the southern 6.3 miles that is part of the permanent haul route (i.e., north of the location where the mine access road intersects Duette Rd), this is effectively a new roadway surface.
  13. Cargill shall have a structural Engineer examine the bridge at the East Fork of the Manatee River every 6 months. A copy of the engineer's findings shall be submitted to the Manatee County Transportation and Planning Departments for review. Should the report identify that the bridge is not structurally sound to handle the phosphate truck traffic, then Cargill shall cease use of that haul route until such time as the bridge deficiencies are corrected.

14. Cargill shall be responsible for expense of extraordinary maintenance of the Duette Road roadway through the life of the haul route (i.e., July 31, 2011). Extraordinary maintenance is defined as the actual costs incurred by Manatee County for maintenance of Duette Road that are over and above the average annual per-mile cost of maintenance of similar roadways in Manatee County. Cargill shall ensure reimbursement for the required maintenance through a bond or other financial guarantees acceptable to Manatee County, when furnished with verified cost estimates.

15. Trucking will not occur during school bus hours. Trucks will not leave the mine or the Bartow or Green Bay Phosphate Plants or travel on Duette Road, S.R. 37, or S.R. 62 during the time that school buses are either picking up or delivering students. The bus schedules are available from the supervisor of school bus operations. The schedules will be reviewed by Manatee County and Cargill personnel and the appropriate trucking schedule settled upon and published. The schedule will be distributed to the Cargill operations personnel, scale operator, and Material Hauler's terminal manager.

Before the start of a new school year or summer-school, Cargill will request written notice from the Supervisor of School Bus Operations and adjust the trucking schedule accordingly, with approval by Manatee County.

On scheduled school closure days and weekends the trucks will run twenty-four hours per day with the following exception:

Any truck sighting a school bus during non-school bus hours will report the occurrence to their dispatcher and the Director of the Manatee County Environmental Management Department, so the incident can be investigated and schedules amended if necessary.

16. Cargill shall not use more than one (1) material transportation firm, including subcontractors, at any time. Cargill shall provide written notice to Manatee County of which material transportation firms and subcontractors will be utilized. This notice shall be provided at least 30 days prior to changing material transporters or using a subcontractor unless a strike or act of God requires less notice to be given.

Should Manatee County object to the selection of a particular firm or subcontractor, it shall provide written notice to Cargill at least 7 days prior to the proposed change, unless because of strike or act of God, Cargill has given less notice than thirty days, in which case the County will give notice

to as soon as is reasonably possible. If such notice is issued by Manatee County to Cargill, Cargill shall not change to the new material transporter or subcontractor until the nature of the objection is reviewed by the Board of County Commissioners at a regularly scheduled meeting, at least 7 days prior to the proposed change.

Manatee County shall not issue a notice of objection without cause.

17. Cargill shall provide sufficient funds to the Manatee County Sheriff's Department in order to monitor the activities of Cargill's trucks in Manatee County, to determine compliance with the conditions of the amended Development Order and to enforce highway safety regulations.
18. Cargill shall erect and maintain signs along Duette Road informing northbound and southbound motorists that truck are entering the highway. The size, placement, and wording of these signs shall be approved by the Manatee County Transportation Department and the signs shall be erected before trucking operations commence.

### **C. MINING AND RECLAMATION MATTERS**

#### **Manatee County Code of Laws**

Except as otherwise provided in subparagraphs 1 through 3, below, Cargill shall operate the Wingate Creek Mine in full compliance and accordance with Chapter 2-20 of the Manatee County Code of Laws, as amended from time to time (the "County Mining Code") (except to the extent Cargill has, pursuant to applicable law and the County Mining Code, a vested right to operate in accordance with the current County Mining Code in effect as of the date of this Development Order, in which case Cargill shall operate in full compliance and accordance with such current County Mining Code) and any Master Mine Plan and Operating Permits, and any and all applicable state and federal laws and regulations, in effect at the time of such operation:

1. The County shall have the right to perform on-site inspections of the Wingate Creek Mine, from time to time, upon reasonable notice to Cargill and during normal business hours, so long as the Wingate Creek Mine is being used for phosphate mining purposes.
2. Cargill shall adhere to a 200' setback requirement along the exterior boundary of the Wingate Creek Mine and shall not, subsequent to the effective date hereof, conduct any mining operations (including stockpiling) within such setback area; provided, however, that the 200' setback

requirements shall be reduced to 50' setback requirements at all points along the exterior boundary of the Wingate Creek Mine located in Sections 20 and 21, Township 22 East, Range 34 South ("the 50' Setback Area"). Notwithstanding the foregoing, Cargill shall observe a 200' setback in respect to any stockpile area located within the 50' Setback Area.

3. Cargill shall reclaim the mined property located within the Wingate Creek Mine consistent with the Conceptual Reclamation Plan for the Wingate Creek Mine (as approved by the Florida Department of Environmental Protection, Bureau of Mine Reclamation) on June 29, 1994 (the DEP-BMR Revised Conceptual Plan) and the terms and conditions as contained in this Amended Development Order.

### **General Mining and Reclamation Matters**

1. The present sand/clay mixture method of reclamation shall not be construed as a clay settling area.
2. All numbers associated with clay volumes, tonnages, capacities, and other volumes associated with sand/clay mixture reclamation (as indicated in the Detailed Reclamation Plan which is part of the Operating Permit) shall be superseded by the DEP-BMR Revised Conceptual Plan, except as may be provided herein.
3. The waste disposal/mine cut areas 1, 2, and 3 identified in the DEP-BMR Revised Conceptual Plan and located in Section 31, Township 34 South, Range 22 East and Section 6, Township 35 South, Range 22 East, will be reclaimed and ready for initiation of contouring and revegetation within two (2) years of the effective date of this Amended Development Order.
4. The lake constructed as part of reclamation in Section 28, Township 34 South, Range 22 East, shall be contoured in accordance with the requirements of the approved Master Mine Plan and the FDEP-BMR Conceptual Reclamation Plan for the Wingate Creek Mine.
5. Best Possible technology will be used to provide the maximum protection possible for the public health, safety, and welfare, and which minimizes to the greatest degree possible any adverse impacts of mining on the watershed of the Lake Manatee reservoir. Any flow of surface water from the plant area and sand tailings pile in Sections 20(S1/2) & 30(NE1/4) of Twp. 34 S Range 22E, will be intercepted by ditch and berm systems and

redirected away from the Lake Manatee Watershed. Waters will be released only through approved NPDES outfalls.

6. Vegetative cover established on the inner and outer clay settling area walls shall be maintained on all exposed surfaces so as to permit visual inspection of the soil surfaces.
7. The two floating dredges used in the mining and reclamation process shall be dismantled and removed from the Wingate Creek Mine at the completion of mining and reclamation activities in accordance with the "Dredge Disassembly and Removal Plan" which was attached as Exhibit F to Resolution 88-236. The release of the general warranty surety and reclamation bond in accordance with the provisions of County Mining Code shall be conditioned upon the approval of removal of the dredges by the Director of the Environmental Management Department, who shall approve same, upon satisfactory compliance with the provisions of the "Dredge Disassembly and Removal Plan". The total amount of the general warranty surety and reclamation bond shall not be reduced to an amount less than the costs of the dredge removal as determined by a Florida registered professional engineer engaged by Cargill and satisfactory to the County.
8. Cargill shall, within thirty (30) days of the effective date of the adoption of an Operating Permit that implements this Development Order, apply to the Florida Department of Environmental Protection - Bureau of Mine Reclamation to amend the FDEP-BMR Conceptual Reclamation Plan so that it conforms to the approved Master Mine Plan, Operating Permit, and this Development Order.
9. There shall be no chemical processing of any phosphate product extracted from this mine within Manatee County
10. Cargill shall maintain a 300 ft. setback for mining along the northern boundary of the Winding Creek Subdivision in Sections 28 & 29, Township 34 South, Range 22 East, Manatee County, Florida. Within sixty (60) days of approval by Manatee County and FDEP Bureau of Mine Reclamation ("BMR"), Cargill will construct a berm approximately 10 feet in height to the east of wetlands adjacent to the clay settling area and an approximate 100 ft. wide landscaped buffer in the northernmost 100 feet of the setback area. The design will be formulated by Cargill and approved by Manatee County, FDEP, and BMR and will be incorporated into the Master Mine Plan. Design shall include 3 to 5 gallon wax myrtles planted on 10 ft. centers to provide a visual screen along the top of the berm. The berm side slopes and

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landscape buffer shall be planted in three rows spaced 20 feet apart on 30 ft. centers with slash pines, live oaks, or other suitable canopy trees. Tree rows shall be planted in staggered pattern and will be a minimum of 3 inch caliper and a minimum of eight feet in height.

11. Cargill shall install on its property two additional monitoring wells (for a total of three in this area) within 100 ft. of the northernmost property line of the Winding Creek Subdivision property line. Cargill shall install and monitor the wells per the requirements of the shallow ground water monitoring program included in the Master Mine Plan update.
12. Cargill shall obtain baseline water quality sampling for Winding Creek residential drinking water wells in Lots 26, 27, 28, 29, 30, 34, 35, 36, 37, 64, 65, 66, and 67. The sampling will be conducted within 60 days of Operating Permit approval for residents with wells in Lots 26, 27, 29, and 34. Cargill will conduct baseline sampling for the remaining listed lots within 60 days of notice by the Winding Creek Home Owners Association of installation of a new potable well in Lots 28, 30, 35, 36, 64, 65, 66, and 67. Subsequent sampling will be conducted by Cargill if notified by Winding Creek residents in lots noted above, due to a suspected water quality issue. If such an issue is identified Cargill will conduct an investigation of the complaint and file a report with the Manatee County EMD and subject property owner.
13. Cargill will work with DEP and Manatee County to relocate Outfall 001 to the polishing pond southeast of plant site as described in the Master Mine Plan update.
14. Pre and post-mining hydrology will meet Manatee County and Bureau of Mine Reclamation standards.
15. Cargill has a \$10,000,000 environmental liability policy that is actionable by Manatee County on behalf of any affected party for the coverage and occurrences provided for in the policy.
16. Cargill shall inform the Winding Creek Homeowners Association of all future revisions of the DRI Development Order, Master Mine Plan, and Operating Permit for the Wingate Creek Mine. Cargill will keep the Winding Creek Homeowners Association informed of any proposed revisions to county mining codes or other pertinent ordinance of which it is aware that may be developed in the future.

17. Radionuclides are monitored at the Wingate Creek NPDES Outfalls 001 & 002. Water reporting to the outfalls is connected to all facets of the mining operation water recirculation system. Water quality data available to Cargill since 1994 has indicated that there have not been any exceedences of water quality standards for radionuclides.
18. Stockpiling in the mining area designated as the 2005 mining area in Master Mine Plan Update shall be limited to a maximum height of 25 ft.
19. Hours for operations of the mine are typically 24 hours per day, 7 days per week. Cargill agrees to abate noise from dredging operations by not using horns for communications on the dredge from 7 PM to 9 AM. Alternatives to horn use for communication will be explored. Operational lighting will be mitigated by the installation of the visual buffer in the setback area described in Stipulation 4.C(10), above. If there are complaints or concerns on noise or light issues, Wingate Creek Mine operations personnel can be contacted at 941-322-6801, to promptly investigate and reach a fair resolution in consultation with Manatee County Environmental Management Department.
20. The Wingate Creek Master Mine plan and Conceptual Reclamation plan provides descriptions of the environmental and reclamation programs in place to address environmental issues. The plans include descriptions of the environmental monitoring programs, reclamation programs, and mining details. All other environmental monitoring and protection is mandated through Manatee County Mining Ordinance, DEP NPDES program and DEP Bureau of Mine Reclamation regulatory programs.
21. If any drinking water well at Winding Creek Subdivision is found to be contaminated by exceedences of drinking water standards and which is based upon a finding that Cargill is responsible for this contamination, Cargill shall within 24 hours provide in its sole discretion, an alternative drinking water source until the contamination is remediated by Cargill.
22. The applicant shall consult with the Charlotte Harbor National Estuary Program (CHNEP), and shall use its best efforts to assure that its mining activities are consistent with the policies of the CHNEP to the extent that they do not significantly impede Cargill's ability to continue mining operations that have been previously approved. In the event CHNEP notifies the applicant that its mining activities are not, in any respect, consistent with the policies of the CHNEP, the applicant will promptly notify the County.

**D. ENVIRONMENTAL AND WATER SUPPLY MATTERS**

1. Cargill shall comply with the terms and conditions of the Environmental Monitoring Program for the Wingate Creek Mine which was attached as Exhibit G to Resolution 88-236.
2. Cargill's current Southwest Florida Water Management District (SWFWMD) Water Use Permit amounts and the resultant drawdown levels are hereby recognized as an existing use condition in any consumptive use permit it may attempt to receive for adjacent properties. The County will not contest the pumpage of either well adjacent to the Cargill/Manatee County property line at maximum capacity and the resultant drawdowns for a period of up to 30 days for reasons of maintenance repair of the production wells and pumps. Cargill shall allow connection of a transmission line to the Cargill production well system for the purpose of providing emergency water supply to the County water system during the duration of a severe water shortage that might be declared by SWFWMD. Cargill shall provide an easement for the construction and maintenance of such pipeline. The construction of this pipeline will be the sole responsibility of the County, which will bear the cost of the construction. Relocation cost of the pipeline at any future date will be borne by the party requiring the relocation. Cargill shall cooperate with Manatee County in an application to SWFWMD for water use permits to reflect conjunctive use of the Cargill well system for both industrial and municipal supply up to the present maximum daily permit levels. The quantity transferred to the County system shall not affect the operation of the beneficiation facility. The County shall reimburse Cargill for the pro- rata share of the operational, maintenance, and other mutually agreed upon costs associated with the transfer of water to the County system.

**E. DELETION OF PROPERTY**

1. This Development Order reflects the deletion of an 80.75 acre parcel along the east side of Logue Road, known as Tract WC-4(A), from this DRI, to recognize that this parcel was mined, reclaimed, released from reclamation, and sold to another party by Cargill's predecessors in title to the Wingate Creek Mine. Accordingly, the legal description in Section 5 of this Development Order reflects the removal of Tract WC-4(A) from the Wingate Creek Mine and the DRI.

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## **F. GENERAL TERMS AND CONDITIONS**

1. Cargill shall provide property management to insure proper safeguards against environmental problems that could occur when the mine is shut down. The following items, at a minimum, shall be included in that management:
  - a. Management of water throughout the mine to insure that any discharges to waters of the state meet water quality and quantity standards of Cargill's state and federal discharge permits.
  - b. Operations and maintenance of any clay settling area impoundment to insure that water levels within the structure, the condition of the impoundment walls, and any other features of the impoundment comply with the requirements of Chapter 62-672, Florida Administrative Code.
  - c. Continuation of monitoring activities as required by state and federal permits and the Environmental Monitoring Program (Exhibit F to Resolution 88-236) for the Wingate Creek Mine.
  - d. Any other operational or maintenance measure which are reasonably necessary to protect the public health, safety, and welfare.

### **SECTION 5. LEGAL DESCRIPTION**

Development of Wingate Creek Mine shall be restricted to the 3,024.48 acres currently owned by Cargill Fertilizer LLC., and described by the legal description included as Exhibit "A", attached to and made a part of this Development Order.

### **SECTION 6. DEADLINE FOR COMMENCEMENT OF DEVELOPMENT**

Physical development of the project has commenced. If any five year period shall expire without significant development activity on the site, the Board of County Commissioners may conduct a public hearing in accordance with the Land Development Code and may, at its option, based on evidence 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\* (such as the unavailability of permits because of inadequate public facilities, or for any other similar reason). For the purpose of this provision, "significant development" shall be the actual construction of site improvements or buildings as part of an ongoing effort to prepare land for mining.

## **SECTION 7. RESTRICTIONS ON DOWN-ZONING**

Prior to December 31, 2014 the County shall not down-zone or reduce the intensity or unit density permitted by this Development Order, unless the County demonstrates that:

- A. Substantial changes in the conditions underlying the approval of the Development 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 to the public health, safety, or welfare.

Any down-zoning or reduction in density or 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 Development 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 Development Order, and nothing in this Ordinance shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the Developer\* by this Development 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 Section 380.06(15)(c)3, Florida Statutes.

## **SECTION 8. ORDER BINDING UPON DEVELOPER\***

This Order shall be binding upon the Developer\*, its successors, assigns, or successors in interest.

## **SECTION 9. COMPLIANCE WITH CODES AND ORDINANCES**

All development undertaken pursuant to this Development Order shall be in accordance with all applicable local codes and ordinances in effect at the time of permitting, and other laws, except as specifically and expressly authorized herein.

### **SECTION 10. 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 effective date of this Development Order to the Developer\*, the DCA, and the TBRPC.

### **SECTION 11. NOTICE OF RECORDING**

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

### **SECTION 12. NO CODIFICATION**

This ordinance shall not be codified in the Manatee County Code of Laws.

### **SECTION 13. SEVERABILITY**

It is the intent of this Development Order to comply with the requirements of all applicable law and constitutional requirements. If any provision or portion of this Development Order is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then such provision or portion shall be deemed null and void, but all remaining provisions and portions of this Development Order shall remain in full force and effect.

### **SECTION 14. EFFECTIVE DATE**

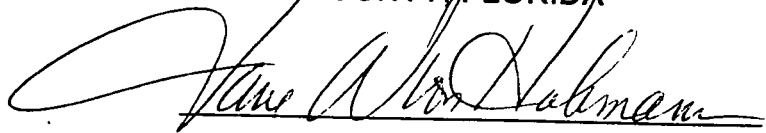
This Ordinance shall become effective upon filing of a certified copy with the Department of State; provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend development authorization granted by this Development Order, until the resolution of that appeal. However, this is not intended to suspend development previously authorized pursuant to Resolution R-88-236, as amended, during the pendency of any appeal.

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Ordinance 04-58 - Wingate Creek Mine DRI

**ADOPTED AND APPROVED** with a quorum present and voting the 24<sup>th</sup> day of August, 2004, and as amended on the 14<sup>th</sup> day of September, 2004.

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



**Chairman**

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

By: Susan S. Romo  
dc



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**MANATEE COUNTY  
ORDINANCE 04-58  
EXHIBIT E**

**Trucking Operation Requirements for the Wingate Creek Mine**

1. CARGO

The cargo being hauled is phosphate rock and has no specific toxicity problems which would cause special transportation problems.

2. TRUCK LIMITS

The trucks have two specific capacity limits determined by the number of axles on the tractor/trailer combination. Trucks having two trailer axles and two tractor axles shall be allowed to carry a maximum weight of 73,280 pounds, while trucks having three axles on both tractor and trailer have a maximum capacity of 80,000 pounds. No special D.O.T. emblems are required. Each truck will be identified as a Cargill truck by the use of a Cargill sign on the tailgate which will be visible from a normal safe following distance.

3. LOADING-TARE WEIGHT

The loading will take place at the Wingate Mine. Trucks will proceed to the scale upon arrival at the mine. Before entering the scales each truck will come to a complete stop. The truck will proceed onto the scale and stop when correctly positioned. The scale operator will light weigh the truck and inform the driver which material is to be loaded (pebble, concentrate, or combination of both). This weight will appear as the "tare" weight on the bill of lading. The weight is normally 22,000 - 25,000 pounds. Any variation of the tare should be reported to the plant shift supervisor.

4. LOADING-CARGO

Trucks will then proceed to the loading area. The loader operators should load a truck evenly both front to back and side to side. This will minimize the possibility of a load shift during transit. While at the piles the truck drivers will get out of their trucks and sample each bucket of material that is placed in their truck. The sample is placed in a bucket and then covered. This is important to get an accurate moisture sample. Moisture will be controlled at 8-13% to minimize dusting and excess leakage. The sample analysis will be reported on the daily production report. The

month-to-date analysis can also be found on the report. The daily production report can be found in the general manager's files and is saved four years.

5. LOADING - INSPECTION

While outside the truck each driver is responsible to make an inspection tour of his vehicle. During this tour the vehicle will be observed for tire condition, tailgate position, leakage, tail lights, tractor lights, brakes. If the driver or loader operator finds a problem with the truck it will be removed from the line until it can be repaired.

6. LOADING - TOPPING & WEIGH-OUT

Once loaded the truck will proceed to the scale for topping and weigh-out. The driver will again bring the truck to a full stop before proceeding onto the scale. This will minimize scale damage and insure weight accuracy. As the truck is weighed, the scale operator will determine if it is overweight or underweight from the aforementioned gross vehicle weights. If the truck is overweight it will be backed off the scale and dumped. The under weight trucks will be topped to the correct weight with the truck topping hopper. After topping, the truck driver will cover his load with a tarp. At no time will trucks be allowed to leave the scale untarped. This is a violation of the Florida Motor Vehicle code and will not be tolerated! The driver will proceed to the scale house where he signs to accept the load on the "load dispatch sheet" and the driver's copy of the bill of lading will be completed.

7. SCALE - OPERATION & RECORDS

The scale operator is responsible for the accuracy of the scale operation and the time intervals of all trucks dispatched. When the truck returns to the scale and the weight does not need adjustment, the operator will print this weight on the bill of lading along with the time and date. Otherwise, after the load has been adjusted, the adjusted weight will be printed on the bill of lading as the gross weight. The truck dispatch sheet will be filled in at this time. The tractor/trailer numbers; weight before topping and weight after topping; and drivers signature will be put on dispatch sheet. The final loaded weight along with the time and date will be printed on the bill of lading. The tractor/trailer numbers and driver's signature will also be placed on the bill of lading. If the time has been at least four minutes since the departure of the previous truck, the driver will be allowed to leave. If the time is less than four minutes, he will be required to remain until the correct time interval is obtained. At this time the bill of lading will be stamped again on the bottom. This will be the official departure time.

The bill-of-lading driver copies are given to the driver and include the following:

Yellow copy - Cargill Bartow or Cargill Green Bay plant records  
Pink copy - Material hauler records

The white copies of the bill of lading are kept at the scale and compiled with the truck dispatch sheets. The day's shipping will be sent to the accounting department for compilation. A shipping day starts at 07:00 AM and ends at 06:59 AM. After the data is input to the computer and the computer shipping report and bill of lading white copies are stored at Cargill. Cargill Accounting will compare truck counts leaving the Wingate Creek Mine vs. trucks received at the Cargill Bartow and Green Bay plants on a daily basis. The white copies will then be kept in storage for a minimum of five years. The truck dispatch sheets will be sent to the plant superintendent for like storage.

The truck scale will be calibrated a minimum of once every three months or whenever a discrepancy may occur between other scales that are check weighing trucks. The contractor will be Central Florida Scales or an equivalent contractor. The calibration report will be given to the Plant Superintendent who will store them for a period of two years. The trucks will be check-weighed on a periodic basis at the Cargill Bartow and Green Bay plant scales. The scales will be inspected and certified annually by the Florida D.O.T. The comparisons between the scales will be made the Cargill Bartow and Green Bay plant superintendents and sent to the mine for analysis. These will be kept in the files at the mine office. A sample bill of lading can be found in the Appendix along with a mine dispatch sheet.

8. TRUCK ROUTE

The drivers will proceed on the designated route as detailed in Manatee County Ordinance 04-58. There will be no deviation from the aforementioned. The return trip shall cover the exact route. A route map is shown on the following page.

9. TRUCK INTERVALS

The interval between trucks traveling both loaded and unloaded will be four minutes. The intervals will be monitored at the mine by the scale operator using the bill of lading and the truck dispatch sheets while the return trip will be monitored by the dispatcher from the appropriate terminal, depending on the route.

If the trucks are not at least four minutes apart, the dispatcher will detain them until the required spacing is obtained. Traffic conditions or mechanical problems can reduce speeds so that truck bunching occurs. At no time shall the spacing between trucks be less than six hundred yards. The rear truck shall be responsible to reduce

speed and widen the gap until it is sufficient. The trucks are equipped with company radios and communication is possible between the trucks and the dispatcher.

10. SAFETY MONITORS

The Material Hauler will maintain a safety monitoring staff who will travel the route continuously. During this trip the conditions of the trucks, road, weather, traffic and any defects or problems encountered will be recorded on the observation report form. The safety engineer will file these reports with his supervisor at the Material Haulers terminal. Reports will be filed by individual truck number. A sample report can be found in the Appendix. This report will be reviewed by the terminal manager and then forwarded to the Material Haulers main office for review by the safety Manager and then storage.

11. TRUCKING SCHEDULES

Trucking will not occur during school bus hours. Trucks will not leave the mine or the Cargill Bartow or Green River phosphate plants or travel on Duette Road, S.R. 37, or S.R. 62 during the time that school buses are either picking up or delivering students. The bus schedules are available from the supervisor of school bus operations. The schedules will be reviewed by Manatee County and Cargill personnel and the appropriate trucking schedule settled upon and published. The schedule will be distributed to the Cargill operations personnel, scale operator, and Material Hauler's terminal manager.

Before the start of a new school year or summer-school, Cargill will request written notice from the Supervisor of School Bus Operations and adjust the trucking schedule accordingly, with approval by Manatee County.

On scheduled school closure days and weekends the trucks will run twenty-four hours per day with the following exception:

Any truck sighting a school bus during non-school bus hours will report the occurrence to their dispatcher and the Manatee County Mining Coordinator, so the incident can be investigated and schedules amended if necessary.

12. TRUCK DRIVERS

One of the most critical parts of a safe trucking operation is the driver. The driver must be alert at all times, knowledgeable of his equipment and well trained. The Material Hauler's attitude towards obtaining, training, and maintaining a qualified staff is paramount with the management.



13. DRIVER APPLICANTS

An applicant for a driver's position must fulfill the following requirements.

- (1) Be able to fill out application for employment;
- (2) Posses a valid Florida commercial driver's license;
- (3) Pass a D.O.T physical examination;
- (4) Pass a material hauler road test;
- (5) Attend a material hauler orientation school and complete required examination: and
6. Complete all employment procedures as required by the Material Hauler and all regulatory agencies.

Enclosed in the appendices is a sample of a complete employment package. This package includes the following:

- (1) Application
- (2) Checklist
- (3) Insurance Enrollment Form
- (4) W-4 Form
- (5) Physical Examination Form
- (6) Request for Information - Former Employer
- (7) Record of Road Test
- (8) Certification of Road Test
- (9) Driver License Information Date
- (10) Reference Check

14. DRIVER TRAINEES

After the above information is completed the applicant will become a trainee. He will enter a training program by completing a trainee/trainer agreement. This agreement defines the trainee's responsibility, trainer's responsibility, and monetary rewards. The trainee will then perform normal duties under the observation of the trainer for a three-day training period. Each day the trainer will complete a "Trial Trip Report". This report summarizes the trainee's basic driving abilities. After the training period is over a final report and pay request is completed. The trainer will receive a basic wage while training applicant and after a successful ninety day probationary period he will receive an incentive pay for each trained driver. Copies of these forms and agreement can be found in the appendices.

15. TRAINED DRIVERS

Once the applicant has become a trained driver he is continuously monitored by the safety engineer and dispatchers. He is required to complete a trip inspection. The following is that inspection.

1. Inspect tractor/trailer license plates.
2. Insure all fluid levels are adequate.
3. Tire pressures meet minimum requirements.
4. Insure all safety equipment is in place.
5. Insure GV weights are not exceeded.

If the driver discovers a problem with the truck before or during his shift, he will return to the terminal and fill out the driver's vehicle inspection report. The vehicle will not be returned to service until the repairs are completed and the mechanic and driver check it out.

A trained driver must also be able to:

- A. Maintain efficient and safe operation of the assigned vehicle.
- B. Follow assigned routes and road maps.
- C. Operate the radio in accordance to F.C.C. and Material Hauler regulations.

- D. Maintain and keep daily logs in accordance of D.O.T. regulations.
- E. Physically and mentally load and unload freight as required.
- F. Read and comprehend computerized payroll print-outs and manifests.

In the appendices is a Driver's Vehicle Inspection Report and Driver's Dail Log.

16. DRIVER CHECK RIDES

Lastly in addition to the observation reports completed by the safety engineer, a check ride report was initiated to maintain driver awareness. A check ride can be made by the safety engineer at any time with any driver of his choosing. An evaluation form is completed by the safety engineer after the check ride. A copy of this report form is also in the appendices. This report is reviewed by the Material Hauler's manager and forwarded to the head office.

17. DRIVER PERFORMANCE

Driver performance will be reported to Cargill on a monthly basis. The report will detail any violations that have occurred during the prior month and the disciplinary actions as a result of those violations. The Material Hauler's Manager will send the written report to the General Manager of Cargill. Additionally the report should contain a status report concerning equipment status, full time driver availability, part-time driver availability, and any additional information that impacts the trucking operation.

18. TRUCK MONITORING

The trucks are equipped with a Eaton-Vorad or equivalent device that analyzes truck and driver performance. Each device records driver performance regarding following distances and truck speed over time. Periodically the information is removed from each device in the fleet and put into a computer. The computer will analyze the data and formulate a report indicating driving/operating problems.

These reports are kept in the Material Hauler's principal Florida office.

19. DRIVER DISCIPLINE

Following is the accepted procedure that is observed in case of accidents.

Ordinance 04-58 - Wingate Creek Mine DRI

- a. The driver reports immediately, of accident involvement and it any bodily injury at scene.
- b. Driver remains at scene of accident until investigation is completed by law enforcement personnel, company insurance adjuster. or company personnel.
- c. The driver completes an accident report when arriving at the terminal.

Disciplinary action would be the following:

- a. Minor accidents or incidents - driver would be allowed to return to work pending any further review by company personnel.
- b. More severe accidents will result in temporary suspension pending investigation of driver record and involvement.
- c. Accidents involving drivers charged with reckless driving or driving under the influence will be immediately terminated from the company.

Incidents involving company drivers, other than accidents. will be reviewed by the appropriate company personnel and disciplinary action recommendations from those persons administered as necessary.

20. NOTICE OF CHANGE IN MATERIAL HAULER

Cargill shall not use more than one (1) material transportation firm at any time. Cargill shall provide written notice to Manatee County of which material transportation firm and subcontractors will be utilized. This notice shall be provided at least 30 days prior to changing material transporters or using a subcontractor unless strike or act of God requires less notice to be given.

Should Manatee County object to the selection of a particular firm or subcontractor, they shall provide written notice to Cargill at least 7 days prior to the proposed change. If such notice is issued by Manatee County to Cargill, Cargill shall not change to the new material transporter or subcontractor until the nature of the objection is reviewed by the Board of County Commissioners at a regularly scheduled meeting, at least 7 days prior to the proposed change.

Manatee County shall not issue a notice of objection without cause.

THIS IS A CORRECTIVE DOCUMENT



STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 15<sup>th</sup> day of

September 2009

R.B. SHORE  
Clerk of Circuit Court

By: *[Signature]*  
D.C.

Copies -

3 Cert. - Kim Sparks, Planning

1 - Municipal Code

9/24/04

DEU



FLORIDA DEPARTMENT OF STATE  
**Glenda E. Hood**  
Secretary of State  
DIVISION OF LIBRARY AND INFORMATION SERVICES

FILED FOR RECORD  
R. B. SHORE

2004 SEP 24 PM 12:30

CLERK OF CIRCUIT COURT  
MANATEE CO. FLORIDA

September 21, 2004

Honorable R. B. "Chips" Shore  
Clerk of Circuit Court  
Manatee County  
Post Office Box 25400  
Bradenton, Florida 34206

Attention: Paula Wanless Branch, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated September 16, 2004 and certified copy of Manatee County Ordinance No. 04-58, which was filed in this office on September 21, 2004.

As requested, the date stamped copy is being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/kcs

Enclosure

FILED FOR RECORD  
R. B. SHORE

2004 SEP 10 AM 9:32

ORDINANCE 04-21  
WINGATE CREEK MINE DRI

CLERK OF DISTRICT COURT

FILED  
2004 SEP -2 PM 12:38  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND USE; AMENDING AND RESTATING THE DEVELOPMENT ORDER PURSUANT TO CHAPTER 380.06, FLORIDA STATUTES, FOR THE WINGATE CREEK MINE DEVELOPMENT OF REGIONAL IMPACT, DRI #4 (ALSO KNOWN AS TBRPC DRI #42/95); PROVIDING FINDINGS OF FACT; PROVIDING CONCLUSION OF LAW; PROVIDING FOR THE EFFECT OF THIS ORDINANCE AND RECONCILING OF PRIOR APPROVALS; EXTENDING THE LIFE OF MINING (A.K.A. BUILDOUT AND TERMINATION DATES) FOR THIS DRI BY 7 YEARS TO JULY 31, 2011 FOR A CUMULATIVE EXTENSION OF 13.5 YEARS; EXTENDING THE LIFE OF RECLAMATION FOR THIS DRI BY 7 YEARS TO DECEMBER 31, 2015 FOR A CUMULATIVE EXTENSION OF 16 YEARS; EXTENDING THE EXPIRATION DATE OF THE AUTHORIZED TRUCK HAULING ROUTES BY 7 YEARS TO JULY 31, 2011 FOR A CUMULATIVE EXTENSION OF 13.5 YEARS; AMENDING THE D.O. TO DELETE A PREVIOUSLY APPROVED HAUL ROUTE WEST ON SR 64 TO THE PINEY POINT PLANT; THE D.O. TO DELETE A PREVIOUSLY APPROVED HAUL ROUTE EAST ON SR 64 TO HARDEE COUNTY; AMENDING THE D.O. TO CHANGE THE DESTINATION FOR A PREVIOUSLY APPROVED HAUL ROUTE TO THE NORTH IN POLK COUNTY BY DELETING THE MULBERRY PLANT ON SR 60, ADDING THE CARGILL BARTOW PLANT ON SR 60, AND ADDING THE CARGILL GREEN BAY PLANT ON CR 640; DELETING 80.75 ACRES ALONG THE EAST SIDE OF LOGUE ROAD [KNOWN AS TRACT WC-4(A)] FROM THIS DRI AND AMENDING THE LEGAL DESCRIPTION TO REFLECT THIS CHANGE IN ACREAGE; AMENDING THE D.O. TO CHANGE THE NAME OF THE MINE OWNER TO CARGILL FERTILIZER, LLC; AMENDING THE D.O. TO UPDATE DEFINITIONS, TERMINOLOGY, DEPARTMENTAL AND AGENCY REFERENCES, ESTABLISHING NEW OR MODIFIED CONDITIONS OF APPROVAL, AND OTHER MINOR CHANGES TO ENSURE THE DEVELOPMENT ORDER WILL BE INTERNALLY CONSISTENT WITH ALL CHANGES PROPOSED BY THE APPLICANT; AMENDING EXHIBIT E TO REFLECT THE ABOVE CHANGES AND TO REVISE THE TRUCKING SCHEDULE; AMENDING MAP H TO REFLECT THE ABOVE CHANGES; ESTABLISHING GENERAL TERMS AND CONDITIONS; INCORPORATING A NEW LEGAL DESCRIPTION; ESTABLISHING DEADLINES FOR COMMENCEMENT OF DEVELOPMENT; ESTABLISHING RESTRICTIONS ON DOWN ZONING; PROVIDING THAT THIS ORDINANCE SHALL BE BINDING UPON THE DEVELOPER\*; PROVIDING FOR COMPLIANCE WITH CODES AND ORDINANCES; PROVIDING FOR RENDITION; PROVIDING FOR NOTICE OF RECORDING; PROVIDING FOR NO CODIFICATION OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Cargill Fertilizer LLC., as successors in interest to Nu-Gulf Industries, Inc., Beker Phosphate Corporation, and Beker Industries Corporation possesses an Amended Development of Regional Impact Development Order from Manatee County, R-88-236; and

**WHEREAS**, Resolution R-88-236 also amended the Master Mine Plan and Operating Permit for the Wingate Creek Mine; and

**WHEREAS**, The BOCC on July 17, 1990, R-90-60, approved an amendment to the Development Order deleting property from the mine; and

**WHEREAS**, on August 14, 1990, Manatee County approved Resolution R-90-147 adopting an amendment to the Amended Development Order approved by R-88-236 to allow the transport of phosphate rock by truck via an approved haul route; and

**WHEREAS**, on November 5, 1991, Manatee County approved Resolution R-91-250 repealing R-91-26 and adopting an amendment to the Development Order for the Wingate Creek Mine DRI and amending the Master Mine Plan and Operating Permit for this mine; and

**WHEREAS**, on July 25, 1996, Manatee County approved Resolution R-96-188 deleting property from the legal description of the Development Order for the Wingate Creek Mine DRI as a result of the Manatee County Archery and Gun Club settlement with Manatee County; and

**WHEREAS**, on December 16, 1997, Manatee County approved Resolution R-97-241 extending the expiration date for the Wingate Creek Mine Development Order to July 31, 2004, extending the life of the authorized haul routes to July 31, 2004, and the completion of mining reclamation to December 31, 2008; and

**WHEREAS**, on December 16, 1997, Manatee County approved Resolution R-97-242, amending the Master Mine Plan and Operating Permit to conform to the amended Development Order; and

**WHEREAS**, on November 24, 1998, Manatee County approved Resolution R-98-182 approving the use of an additional haul route between the mine and Mulberry, Florida using Duette Road; and

**WHEREAS**, on July 27, 1999, Manatee County approved Resolution R-99-89 approving temporary use of the Duette Road haul route until July 31, 1999 and before certain improvements to the State Road system were complete; and



**WHEREAS**, The Wingate Creek Mine shut down operations in December of 1999 and has remained closed since that time; and

**WHEREAS**, ownership of the Wingate Creek Mine subsequently passed to Cargill Fertilizer, LLC on March 22, 2004; and

**WHEREAS**, on May 5, 2004, Cargill Fertilizer, LLC filed a NOPC 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 Council, the Central Florida Regional Planning Council, and Florida Department of Community Affairs were provided copies of the Notice of a Proposed Change by Cargill Fertilizer, LLC and were therefore afforded the opportunity to comment on the proposed change; and

**WHEREAS**, the proposed changes are presumed to be a Substantial Deviation pursuant to Sections 380.06(19)(c) and 380.06(19)(e)3. Florida Statutes; and

**WHEREAS**, the Department of Community Affairs and Florida Department of Transportation have no objection to the proposed change; and

**WHEREAS**, the Planning Commission has reviewed the Application for Amendment (NOPC) and has filed a recommendation on the NOPC with the Board of County Commissioners; and

**WHEREAS**, the Board of County Commissioners of Manatee County has on August 24, 2004, held a duly noticed public hearing on the amendment to the Wingate Creek 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

**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, AS FOLLOWS:**

**SECTION 1. FINDINGS OF FACT:**

The Board of County Commissioners after considering the testimony, evidence documentation, the recommendation and findings of the Planning Commission, and all other matters presented to the Board at the public hearing, hereby makes the following findings of fact:

- A.** All recitals preceding this section are adopted as findings of fact.
- B.** Cargill Fertilizer LLC, as successor in interest to Nu-Gulf Industries, Inc., Beker Phosphate Corporation, and Beker Industries Corporation possesses an Amended Development of Regional Impact Development Order from Manatee County (R-88-236), previously submitted to Manatee County, Florida, an Application for Development Approval (ADA) and Sufficiency Responses which were marked as Composite Exhibit and incorporated by reference into R-88-236, Notices of Proposed Change for Resolutions R-90-60, R-90-147, R-91-250, R-96-188, R-97-241, R-98-182, and R-99-89, and has also submitted the requested amendment identified as Ordinance 04-21. Hereinafter, the word Application shall mean the ADA, the Sufficiency Responses filed, the Notices of Proposed Change for Resolutions R-90-60, R-90-147, R-91-250, R-96-188, R-97-241, R-98-182, and R-99-89 and the requested change Ordinance 04-21 and other exhibits duly submitted and recorded for a project to be known as Wingate Creek Mine Development of Regional Impact (DRI).
- C.** The real property which is the subject of this Application is legally described as set forth in Section 5 of this Ordinance.
- D.** The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for an amendment to and restatement of an approved Development of Regional Impact, known as the Wingate Creek Mine DRI, as it relates to the real property described in Section 5 of this Ordinance, pursuant to Section 380.06, Florida Statutes (FS).
- E.** The Board of County Commissioners held a Public Hearing on August 24, 2004 regarding the proposed amendment to an approved Development of Regional Impact described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, the Manatee County Land Development Code and has further considered the information received at Public Hearing.

- F. The proposed amendment to and restatement of Development of Regional Impact regarding the property described in Section 5 herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01 as amended, the 2020 Manatee County Comprehensive Plan.
- G. The proposed development is not in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.
- H. The authorized agent for the Wingate Creek Mine DRI is Carol Masio McGuire, Holland & Knight LLP, Suite 1200, 1401 Manatee Avenue West, Bradenton, Florida 34205-6702.
- I. The owner of the property is Cargill Fertilizer LLC.
- J. A comprehensive review of the impact generated by the development has been conducted by the departments of Manatee County, the Tampa Bay Regional Planning Council (TBRPC), and the Department of Community Affairs (DCA).
- K. The proposed changes filed by Cargill Fertilizer, LLC on May 5, 2004, as approved, are presumed to be a Substantial Deviation to the Wingate Creek Mine DRI. However, upon consideration of the Development Order conditions to address the identified issues, TBRPC has determined in its NOPC report approved June 14, 2004, that the applicant has provided sufficient information to rebut the presumption of a Substantial Deviation and that no unmitigated regional impacts would be anticipated as a result of this modification.

## **SECTION 2. CONCLUSIONS OF LAW:**

- A. Based upon the previous findings of fact and the following conditions of development approval, the Board of County Commissioners of Manatee County reaches the following conclusions of law:
  - 1. The proposed development of the Wingate Creek Mine is consistent with the local land development regulations and is consistent with the State Comprehensive Plan, the Tampa Bay Regional Planning Council's Strategic Regional Policy Plan, and the Manatee County Comprehensive Plan.
  - 2. The proposed development of the Wingate Creek Mine is consistent with the comments of the Tampa Bay Regional Planning Council as approved on June 14, 2004 and those of the Department of Community Affairs dated June 9, 2004, as conditioned herein.

- 3. These proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in these proceedings, Cargill Fertilizer, LLC is authorized to conduct development as described herein, subject to the conditions, restrictions, and limitations set forth below.
- 4. The review by the County, the TBRPC, the DCA, and other participating agencies and interested citizens reveals that impacts of the development are adequately addressed pursuant to the requirements of Chapter 380, F.S., within the terms and conditions of this Ordinance and the Application. To the extent that the Application is inconsistent with the terms and conditions of this Ordinance, the terms and conditions of this Ordinance shall prevail.

**SECTION 3. EFFECT OF ORDINANCE; RECONCILE INTO ONE DOCUMENT**

This ordinance constitutes the amended and restated Development Order for the development of the property known as Wingate Creek Mine by Cargill Fertilizer, LLC. All prior development orders for the Wingate Creek Mine are superceded by this Ordinance, except to the extant that a condition of or exhibit to a prior development order is specifically and expressly preserved hereby. In the text of this Ordinance, this Ordinance may sometimes be referred to as the "Development Order" or "Order", and Cargill Fertilizer, LLC may be referred to as "Cargill" or the "Developer\*". This Development Order represents a codification of the existing approval for the project integrating those changes proposed in this Substantial Deviation Determination and approved by the Board of County Commissioners into a single Development Order and is for administrative convenience and is not intended to provide a new point of entry for current conditions and requirements of this project that are not related to this Notice of Proposed Change.

**SECTION 4. DEVELOPMENT COMPONENTS AND CONDITIONS.**

**A. EXISTING REQUIREMENTS**

The development of Cargill's Wingate Creek Mine shall be in conformity with the provisions of the ADA dated October 11, 1974 (which was attached as Exhibit C to Resolution R-88-236); the Application for Amendment filed in 1983 (which was attached as Exhibit D to Resolution R-88-236); and the amended Master Mining Plan which was required under R-88-236, except as all of the above may be expressly modified by the terms and conditions of this Amended Development Order or by subsequent ordinances or resolutions of the County.

**B. TRANSPORTATION MATTERS**

1. Cargill is authorized to transport up to 2.0 million dry tons per year of phosphate rock by truck from its Wingate Creek Mine to customers via the haul routes and subject to the tonnage limitations listed below:

HAUL ROUTE:

- A. Up to 2.0 million tons per year from the Wingate Creek Mine road which joins into Duette Road, north to State Road 62, west to State Road 37, north to Polk County Road CR 640, then east to the Cargill Green Bay phosphate plant.
- B. Up to 2.0 million tons per year from the Wingate Creek Mine road which joins into Duette Road, north to State Road 62, west to State Road 37, north to State Road 60, then east to the Cargill Bartow phosphate plant.

Trucks will return along the same described haul routes until July 31, 2011.

2. The trucking operation approved herein shall be conducted in accordance with Exhibit E, which is attached hereto and by reference incorporated herein.
3. Weigh scales shall be maintained at Cargill's Wingate Creek Mine beneficiation facility to insure compliance with the load limits set forth above. Cargill shall, upon reasonable notice, make available for inspection by the Director of the Manatee County Environmental Management Department (the "Director") the weight scale records. Such records shall be retained for a period of five years.
4. Cargill shall require that its hauler prevent debris from leaving trucks, full or empty, during their travel on the haul route.
5. Cargill shall provide sufficient funds to the Manatee County Sheriff's Department in order to monitor the activities of Cargill's trucks in Manatee County to determine their compliance with the terms and conditions of the Amended Development Order and to enforce highway regulations. These funds shall be in addition to those for safety monitors to be provided by Cargill's carrier as outlined in Exhibit E. Cargill shall notify the Sheriff's Department of the trucking operation schedule and of any changes to the schedule lasting more than twenty-four hours. The County shall provide

Cargill an invoice for the portion of the Sheriff's Department time spent monthly on SR 64 during those times that the trucks are operating on that portion of the Haul Route. The invoice shall be accompanied by sufficient documentation to verify times and locations. The amount to be reimbursed shall be the total of those hours spent on SR 64 multiplied by an hourly rate to be set by the Manatee County Sheriff, which amount shall cover the costs of the deputy's salary, vehicle capital and operating costs, equipment capital and operating costs, and overhead expenses. The smallest billable time unit shall be a quarter of an hour.

6. Cargill shall be responsible for its phosphate rock carrier providing the County with a quarterly report certified by the person in charge of the trucking operation. This report will list all accidents in which trucks carrying rock for Cargill were involved, the date and time of the accident, the cause of the accident, the name of the driver involved, the estimated amount of property damage, the number of persons involved, whether hospitalization was required and any other pertinent data. All reports submitted to or prepared by the Florida highway patrol shall be provided to the Manatee County Environmental Management Department along with the quarterly report.
7. Cargill shall be responsible for its carrier's implementation of an inspection program to insure that all vehicles and appurtenant equipment used on the Haul Route are operated in a safe and sound manner. At a minimum, the vehicles and equipment components tabulated in Exhibit E shall be inspected at weekly intervals. Any defects in the vehicles and equipment and dates they were discovered shall be noted on the inspection form and so shall the date on which each defect was corrected. The vehicles shall receive a periodic preventive maintenance check at ten thousand mile intervals. The Director, or his designee, shall be authorized to inspect the records of the vehicle inspection program maintained by Cargill or its carrier upon reasonable notice.
8. Cargill shall assure that any trucks hauling for Cargill along the Haul Route shall be identified by a Cargill sign which is located on the trailer tailgate. This sign will be kept clean and legible.
9. In the event of a spill along the Haul Route, Cargill's carrier shall immediately contact the Florida Department of Transportation and the Director of the Manatee County Department of Public Safety. Cargill shall be responsible for ensuring that its carrier restores, at its own expense, the spill site to the condition at which it existed prior to the spill.

10. Cargill shall comply with any additional transportation conditions and restrictions which the County may require in any further amendment to or in connection with the Amended Master Mine Plan or Operating Permit.
11. Cargill shall complete the following permanent improvements to the transportation system before any trucking from the Wingate Creek Mine recommences:

At the 90 degree turn of Duette Road (mile 5):

- a. Cargill Fertilizer, LLC shall provide designs for and construct geometric improvements to this curve as approved by the Manatee County Transportation Department. At a minimum, the radius of the curve shall be no less than 1,250';
  - b. Cargill shall be responsible to reimburse Manatee County for all costs incurred by the County associated with the acquisition of any right-of-way necessary for Cargill to construct these improvements. Alternatively, Cargill may elect to purchase the land directly from the owner(s) and construct the required improvements; and
  - c. Cargill Fertilizer, LLC shall install new temporary and permanent signs as specified by the Manatee County Transportation Department.
12. For the northern 3.7 miles of Duette Road, Nu-Gulf reconstructed this portion of the roadway pursuant to previous Development Order requirements. Cargill shall not have any further obligation with regard to this segment so long as it is in better condition after completion of mining activity. Nu-Gulf previously documented the existing conditions of the roadway in a manner acceptable to the Manatee County Transportation Department. Upon completion of mining activity, Cargill shall rebuild the Duette Road roadway to existing conditions. For the portion of the southern 6.3 miles that is part of the permanent haul route (i.e., north of the location where the mine access road intersects Duette Rd), this is effectively a new roadway surface.
  13. Cargill shall have a structural Engineer examine the bridge at the East Fork of the Manatee River every 6 months. A copy of the engineer's findings shall be submitted to the Manatee County Transportation and Planning Departments for review. Should the report identify that the bridge is not structurally sound to handle the phosphate truck traffic, then Cargill shall cease use of that haul route until such time as the bridge deficiencies are corrected.

14. Cargill shall be responsible for expense of extraordinary maintenance of the Duette Road roadway through the life of the haul route (i.e., July 31, 2011). Extraordinary maintenance is defined as the actual costs incurred by Manatee County for maintenance of Duette Road that are over and above the average annual per-mile cost of maintenance of similar roadways in Manatee County. Cargill shall ensure reimbursement for the required maintenance through a bond or other financial guarantees acceptable to Manatee County, when furnished with verified cost estimates.
15. Trucking will not occur during school bus hours. Trucks will not leave the mine or the Bartow or Green Bay Phosphate Plants or travel on Duette Road, S.R. 37, or S.R. 62 during the time that school buses are either picking up or delivering students. The bus schedules are available from the supervisor of school bus operations. The schedules will be reviewed by Manatee County and Cargill personnel and the appropriate trucking schedule settled upon and published. The schedule will be distributed to the Cargill operations personnel, scale operator, and Material Hauler's terminal manager.

Before the start of a new school year or summer-school, Cargill will request written notice from the Supervisor of School Bus Operations and adjust the trucking schedule accordingly, with approval by Manatee County.

On scheduled school closure days and weekends the trucks will run twenty-four hours per day with the following exception:

Any truck sighting a school bus during non-school bus hours will report the occurrence to their dispatcher and the Director of the Manatee County Environmental Management Department, so the incident can be investigated and schedules amended if necessary.

16. Cargill shall not use more than one (1) material transportation firm, including subcontractors, at any time. Cargill shall provide written notice to Manatee County of which material transportation firms and subcontractors will be utilized. This notice shall be provided at least 30 days prior to changing material transporters or using a subcontractor unless a strike or act of God requires less notice to be given.

Should Manatee County object to the selection of a particular firm or subcontractor, it shall provide written notice to Cargill at least 7 days prior to the proposed change, unless because of strike or act of God, Cargill has given less notice than thirty days, in which case the County will give notice



to as soon as is reasonably possible. If such notice is issued by Manatee County to Cargill, Cargill shall not change to the new material transporter or subcontractor until the nature of the objection is reviewed by the Board of County Commissioners at a regularly scheduled meeting, at least 7 days prior to the proposed change.

Manatee County shall not issue a notice of objection without cause.

17. Cargill shall provide sufficient funds to the Manatee County Sheriff's Department in order to monitor the activities of Cargill's trucks in Manatee County, to determine compliance with the conditions of the amended Development Order and to enforce highway safety regulations.
18. Cargill shall erect and maintain signs along Duette Road informing northbound and southbound motorists that truck are entering the highway. The size, placement, and wording of these signs shall be approved by the Manatee County Transportation Department and the signs shall be erected before trucking operations commence.

### **C. MINING AND RECLAMATION MATTERS**

#### **Manatee County Code of Laws**

Except as otherwise provided in subparagraphs 1 through 3, below, Cargill shall operate the Wingate Creek Mine in full compliance and accordance with Chapter 2-20 of the Manatee County Code of Laws, as amended from time to time (the "County Mining Code") (except to the extent Cargill has, pursuant to applicable law and the County Mining Code, a vested right to operate in accordance with the current County Mining Code in effect as of the date of this Development Order, in which case Cargill shall operate in full compliance and accordance with such current County Mining Code) and any Master Mine Plan and Operating Permits, and any and all applicable state and federal laws and regulations, in effect at the time of such operation:

1. The County shall have the right to perform on-site inspections of the Wingate Creek Mine, from time to time, upon reasonable notice to Cargill and during normal business hours, so long as the Wingate Creek Mine is being used for phosphate mining purposes.
2. Cargill shall adhere to a 200' setback requirement along the exterior boundary of the Wingate Creek Mine and shall not, subsequent to the effective date hereof, conduct any mining operations (including stockpiling) within such setback area; provided, however, that the 200' setback

requirements shall be reduced to 50' setback requirements at all points along the exterior boundary of the Wingate Creek Mine located in Sections 20 and 21, Township 22 East, Range 34 South ("the 50' Setback Area"). Notwithstanding the foregoing, Cargill shall observe a 200' setback in respect to any stockpile area located within the 50' Setback Area.

3. Cargill shall reclaim the mined property located within the Wingate Creek Mine consistent with the Conceptual Reclamation Plan for the Wingate Creek Mine (as approved by the Florida Department of Environmental Protection, Bureau of Mine Reclamation) on June 29, 1994 (the DEP-BMR Revised Conceptual Plan) and the terms and conditions as contained in this Amended Development Order.

### **General Mining and Reclamation Matters**

1. The present sand/clay mixture method of reclamation shall not be construed as a clay settling area.
2. All numbers associated with clay volumes, tonnages, capacities, and other volumes associated with sand/clay mixture reclamation (as indicated in the Detailed Reclamation Plan which is part of the Operating Permit) shall be superseded by the DEP-BMR Revised Conceptual Plan, except as may be provided herein.
3. The waste disposal/mine cut areas 1, 2, and 3 identified in the DEP-BMR Revised Conceptual Plan and located in Section 31, Township 34 South, Range 22 East and Section 6, Township 35 South, Range 22 East, will be reclaimed and ready for initiation of contouring and revegetation within two (2) years of the effective date of this Amended Development Order.
4. The lake constructed as part of reclamation in Section 28, Township 34 South, Range 22 East, shall be contoured in accordance with the requirements of the approved Master Mine Plan and the FDEP-BMR Conceptual Reclamation Plan for the Wingate Creek Mine.
5. Best Possible technology will be used to provide the maximum protection possible for the public health, safety, and welfare, and which minimizes to the greatest degree possible any adverse impacts of mining on the watershed of the Lake Manatee reservoir. Any flow of surface water from the plant area and sand tailings pile in Sections 20(S1/2) & 30(NE1/4) of Twp. 34 S Range 22E, will be intercepted by ditch and berm systems and

redirected away from the Lake Manatee Watershed. Waters will be released only through approved NPDES outfalls.

6. Vegetative cover established on the inner and outer clay settling area walls shall be maintained on all exposed surfaces so as to permit visual inspection of the soil surfaces.
7. The two floating dredges used in the mining and reclamation process shall be dismantled and removed from the Wingate Creek Mine at the completion of mining and reclamation activities in accordance with the "Dredge Disassembly and Removal Plan" which was attached as Exhibit F to Resolution 88-236. The release of the general warranty surety and reclamation bond in accordance with the provisions of County Mining Code shall be conditioned upon the approval of removal of the dredges by the Director of the Environmental Management Department, who shall approve same, upon satisfactory compliance with the provisions of the "Dredge Disassembly and Removal Plan". The total amount of the general warranty surety and reclamation bond shall not be reduced to an amount less than the costs of the dredge removal as determined by a Florida registered professional engineer engaged by Cargill and satisfactory to the County.
8. Cargill shall, within thirty (30) days of the effective date of the adoption of an Operating Permit that implements this Development Order, apply to the Florida Department of Environmental Protection - Bureau of Mine Reclamation to amend the FDEP-BMR Conceptual Reclamation Plan so that it conforms to the approved Master Mine Plan, Operating Permit, and this Development Order.
9. There shall be no chemical processing of any phosphate product extracted from this mine within Manatee County
10. Cargill shall maintain a 300 ft. setback for mining along the northern boundary of the Winding Creek Subdivision in Sections 28 & 29, Township 34 South, Range 22 East, Manatee County, Florida. Within sixty (60) days of approval by Manatee County and FDEP Bureau of Mine Reclamation ("BMR"), Cargill will construct a berm approximately 10 feet in height to the east of wetlands adjacent to the clay settling area and an approximate 100 ft. wide landscaped buffer in the northernmost 100 feet of the setback area. The design will be formulated by Cargill and approved by Manatee County, FDEP, and BMR and will be incorporated into the Master Mine Plan. Design shall include 3 to 5 gallon wax myrtles planted on 10 ft. centers to provide a visual screen along the top of the berm. The berm side slopes and

landscape buffer shall be planted in three rows spaced 20 feet apart on 30 ft. centers with slash pines, live oaks, or other suitable canopy trees. Tree rows shall be planted in staggered pattern and will be a minimum of 3 inch caliper and a minimum of eight feet in height.

11. Cargill shall install on its property two additional monitoring wells (for a total of three in this area) within 100 ft. of the northernmost property line of the Winding Creek Subdivision property line. Cargill shall install and monitor the wells per the requirements of the shallow ground water monitoring program included in the Master Mine Plan update.
12. Cargill shall obtain baseline water quality sampling for Winding Creek residential drinking water wells in Lots 26, 27, 28, 29, 30, 34, 35, 36, 37, 64, 65, 66, and 67. The sampling will be conducted within 60 days of Operating Permit approval for residents with wells in Lots 26, 27, 29, and 34. Cargill will conduct baseline sampling for the remaining listed lots within 60 days of notice by the Winding Creek Home Owners Association of installation of a new potable well in Lots 28, 30, 35, 36, 64, 65, 66, and 67. Subsequent sampling will be conducted by Cargill if notified by Winding Creek residents in lots noted above, due to a suspected water quality issue. If such an issue is identified Cargill will conduct an investigation of the complaint and file a report with the Manatee County EMD and subject property owner.
13. Cargill will work with DEP and Manatee County to relocate Outfall 001 to the polishing pond southeast of plant site as described in the Master Mine Plan update.
14. Pre and post-mining hydrology will meet Manatee County and Bureau of Mine Reclamation standards.
15. Cargill has a \$10,000,000 environmental liability policy that is actionable by Manatee County on behalf of any affected party for the coverage and occurrences provided for in the policy.
16. Cargill shall inform the Winding Creek Homeowners Association of all future revisions of the DRI Development Order, Master Mine Plan, and Operating Permit for the Wingate Creek Mine. Cargill will keep the Winding Creek Homeowners Association informed of any proposed revisions to county mining codes or other pertinent ordinance of which it is aware that may be developed in the future.

17. Radionuclides are monitored at the Wingate Creek NPDES Outfalls 001 & 002. Water reporting to the outfalls is connected to all facets of the mining operation water recirculation system. Water quality data available to Cargill since 1994 has indicated that there have not been any exceedences of water quality standards for radionuclides.
18. Stockpiling in the mining area designated as the 2005 mining area in Master Mine Plan. Update shall be limited to a maximum height of 25 ft.
19. Hours for operations of the mine are typically 24 hours per day, 7 days per week. Cargill agrees to abate noise from dredging operations by not using horns for communications on the dredge from 7 PM to 9 AM. Alternatives to horn use for communication will be explored. Operational lighting will be mitigated by the installation of the visual buffer in the setback area described in Stipulation 4.C(10), above. If there are complaints or concerns on noise or light issues, Wingate Creek Mine operations personnel can be contacted at 941-322-6801, to promptly investigate and reach a fair resolution in consultation with Manatee County Environmental Management Department.
20. The Wingate Creek Master Mine plan and Conceptual Reclamation plan provides descriptions of the environmental and reclamation programs in place to address environmental issues. The plans include descriptions of the environmental monitoring programs, reclamation programs, and mining details. All other environmental monitoring and protection is mandated through Manatee County Mining Ordinance, DEP NPDES program and DEP Bureau of Mine Reclamation regulatory programs.
21. If any drinking water well at Winding Creek Subdivision is found to be contaminated by exceedences of drinking water standards and which is based upon a finding that Cargill is responsible for this contamination, Cargill shall within 24 hours provide in its sole discretion, an alternative drinking water source until the contamination is remediated by Cargill.
22. The applicant shall consult with the Charlotte Harbor National Estuary Program (CHNEP), and shall use its best efforts to assure that its mining activities are consistent with the policies of the CHNEP to the extent that they do not significantly impede Cargill's ability to continue mining operations that have been previously approved. In the event CHNEP notifies the applicant that its mining activities are not, in any respect, consistent with the policies of the CHNEP, the applicant will promptly notify the County.

**D. ENVIRONMENTAL AND WATER SUPPLY MATTERS**

1. Cargill shall comply with the terms and conditions of the Environmental Monitoring Program for the Wingate Creek Mine which was attached as Exhibit G to Resolution 88-236.
2. Cargill's current Southwest Florida Water Management District (SWFWMD) Water Use Permit amounts and the resultant drawdown levels are hereby recognized as an existing use condition in any consumptive use permit it may attempt to receive for adjacent properties. The County will not contest the pumpage of either well adjacent to the Cargill/Manatee County property line at maximum capacity and the resultant drawdowns for a period of up to 30 days for reasons of maintenance repair of the production wells and pumps. Cargill shall allow connection of a transmission line to the Cargill production well system for the purpose of providing emergency water supply to the County water system during the duration of a severe water shortage that might be declared by SWFWMD. Cargill shall provide an easement for the construction and maintenance of such pipeline. The construction of this pipeline will be the sole responsibility of the County, which will bear the cost of the construction. Relocation cost of the pipeline at any future date will be borne by the party requiring the relocation. Cargill shall cooperate with Manatee County in an application to SWFWMD for water use permits to reflect conjunctive use of the Cargill well system for both industrial and municipal supply up to the present maximum daily permit levels. The quantity transferred to the County system shall not affect the operation of the beneficiation facility. The County shall reimburse Cargill for the pro-rata share of the operational, maintenance, and other mutually agreed upon costs associated with the transfer of water to the County system.

**E. DELETION OF PROPERTY**

1. This Development Order reflects the deletion of an 80.75 acre parcel along the east side of Logue Road, known as Tract WC-4(A), from this DRI, to recognize that this parcel was mined, reclaimed, released from reclamation, and sold to another party by Cargill's predecessors in title to the Wingate Creek Mine. Accordingly, the legal description in Section 5 of this Development Order reflects the removal of Tract WC-4(A) from the Wingate Creek Mine and the DRI.

## **F. GENERAL TERMS AND CONDITIONS**

1. Cargill shall provide property management to insure proper safeguards against environmental problems that could occur when the mine is shut down. The following items, at a minimum, shall be included in that management:
  - a. Management of water throughout the mine to insure that any discharges to waters of the state meet water quality and quantity standards of Cargill's state and federal discharge permits.
  - b. Operations and maintenance of any clay settling area impoundment to insure that water levels within the structure, the condition of the impoundment walls, and any other features of the impoundment comply with the requirements of Chapter 62-672, Florida Administrative Code.
  - c. Continuation of monitoring activities as required by state and federal permits and the Environmental Monitoring Program (Exhibit F to Resolution 88-236) for the Wingate Creek Mine.
  - d. Any other operational or maintenance measure which are reasonably necessary to protect the public health, safety, and welfare.

### **SECTION 5. LEGAL DESCRIPTION**

Development of Wingate Creek Mine shall be restricted to the 3,024.48 acres currently owned by Cargill Fertilizer LLC., and described by the legal description included as Exhibit "A", attached to and made a part of this Development Order.

### **SECTION 6. DEADLINE FOR COMMENCEMENT OF DEVELOPMENT**

Physical development of the project has commenced. If any five year period shall expire without significant development activity on the site, the Board of County Commissioners may conduct a public hearing in accordance with the Land Development Code and may, at its option, based on evidence 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\* (such as the unavailability of permits because of inadequate public facilities, or for any other similar reason). For the purpose of this provision, "significant development" shall be the actual construction of site improvements or buildings as part of an ongoing effort to prepare land for mining.

## **SECTION 7. RESTRICTIONS ON DOWN-ZONING**

Prior to December 31, 2014 the County shall not down-zone or reduce the intensity or unit density permitted by this Development Order, unless the County demonstrates that:

- A. Substantial changes in the conditions underlying the approval of the Development 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 to the public health, safety, or welfare.

Any down-zoning or reduction in density or 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 Development 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 Development Order, and nothing in this Ordinance shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the Developer\* by this Development 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 Section 380.06(15)(c)3, Florida Statutes.

## **SECTION 8. ORDER BINDING UPON DEVELOPER\***

This Order shall be binding upon the Developer\*, its successors, assigns, or successors in interest.

## **SECTION 9. COMPLIANCE WITH CODES AND ORDINANCES**

All development undertaken pursuant to this Development Order shall be in accordance with all applicable local codes and ordinances in effect at the time of permitting, and other laws, except as specifically and expressly authorized herein.



### **SECTION 10. 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 effective date of this Development Order to the Developer\*, the DCA, and the TBRPC.

### **SECTION 11. NOTICE OF RECORDING**

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

### **SECTION 12. NO CODIFICATION**

This ordinance shall not be codified in the Manatee County Code of Laws.

### **SECTION 13. SEVERABILITY**

It is the intent of this Development Order to comply with the requirements of all applicable law and constitutional requirements. If any provision or portion of this Development Order is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then such provision or portion shall be deemed null and void, but all remaining provisions and portions of this Development Order shall remain in full force and effect.

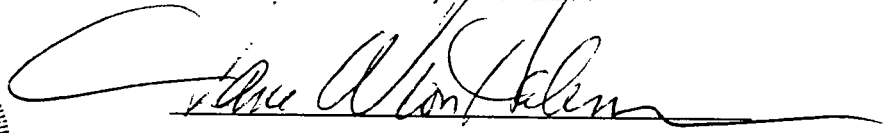
### **SECTION 14. EFFECTIVE DATE**

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 that appeal. However, this is not intended to suspend development previously authorized pursuant to Resolution R-88-236, as amended, during the pendency of any appeal.

Ordinance 04-21 - Wingate Creek Mine DRI

**ADOPTED AND APPROVED** with a quorum present and voting the 24<sup>th</sup> day of August, 2004.

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



**Chairman**



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

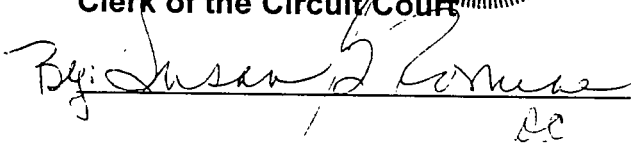
By:   
R.C.

EXHIBIT A

Legal Description Summary

LEGAL DESCRIPTION FOR R-99-89 -NU-GULF DRI No.4 LESS MANVILL  
PURCHASE, DECEMBER 31, 2003

LEGAL DESCRIPTION SUMMARY

PARCEL B	1.221.87 ACRES
PARCEL C	1.984.36 ACRES
Total	3,206.23 ACRES

LESS 101 ACRES 101.00 ACRES

(CONVEYED 2/14/95 TO  
BB/MANATEE)

LESS 80.75 ACRES 80.75 ACRES

(CONVEYED 12/31/03 TO  
MR. MANVILL)

TOTAL OWNERSHIP 1/1/2004 3,024.48 ACRES

PARCEL B

BEGINNING AT THE N.E. CORNER OF SECTION 31, TOWNSHIP 34 SOUTH, RANGE 22 EAST; THENCE S 03E05'41" W. A DISTANCE OF 5596.62 FEET TO THE S.E. CORNER OF SAID SECTION 31; THENCE S 85E55'55" E. ALONG THE NORTH LINE OF SECTION 6 TOWNSHIP 35 SOUTH, RANGE 22 EAST, A DISTANCE OF 181.26 FEET TO THE N.E. CORNER OF SAID SECTION 6; THENCE S 00E10'08" W, A DISTANCE OF 4313.15 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF S.R. 64; THENCE S 89E46'04" W, ALONG THE SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 5135.87 FEET TO THE EASTERLY RIGHT OF WAY LINE OF S.R. 39; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT OF WAY LINE THE FOLLOWING SIX COURSES; N 00022'15" E, A DISTANCE OF 547.42 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 5829.59 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 1199.10 FEET THROUGH A CENTRAL ANGLE OF 11E47'07" TO THE P.T. OF SAID CURVE; THENCE N 11E24'52" W, A DISTANCE OF 299.77 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5629.59 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 1157.96 FEET THROUGH A CENTRAL ANGLE OF 11E47'07" TO THE P.T. OF SAID CURVE; THENCE N 00E22'15" E, A DISTANCE OF 1542.85 FEET; THENCE N 00E39'05" E, A DISTANCE OF 5306.50 FEET TO THE NORTH LINE OF SECTION 31, TOWNSHIP 34 SOUTH, RANGE 22 EAST: THENCE S 88E59'12" E, ALONG SAID NORTH LINE A DISTANCE OF 5482.62 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTION 31, TOWNSHIP 34 SOUTH, RANGE 22 EAST AND SECTION 6, TOWNSHIP 35 SOUTH, RANGE 22 EAST AND SECTION 1, TOWNSHIP 35 SOUTH, RANGE 21 EAST, MANATEE COUNTY, FLORIDA.

SUBJECT TO PERTINENT EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD.

CONTAINING 1221.87 ACRES, MORE OR LESS.

PARCEL C

BEGINNING AT THE S.E. CORNER OF SECTION 28, TOWNSHIP 34 SOUTH, RANGE 22 EAST; THENCE N 89E11'57" W, A DISTANCE OF 5281.33 FEET TO THE S.W. CORNER OF SAID SECTION 28; THENCE N 88E43'52" W, A DISTANCE OF 5424.50 FEET TO THE SW CORNER OF SECTION 29, TOWNSHIP 34 SOUTH, RANGE 22 EAST; THENCE N 01E01'47" W. ALONG THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 2633.20 FEET TO THE EAST 1/4 CORNER OF SECTION 30, TOWNSHIP 34 SOUTH, RANGE 22 EAST; THENCE N 88E48'07" W., ALONG THE SOUTH LINE OF THE N.E. 1/4 OF SAID SECTION 30 A DISTANCE OF 2388.95 FEET; THENCE N 01E00'59" E. A DISTANCE OF 1408.27 FEET; THENCE N 58E32'10" E. A DISTANCE OF 2231.23 FEET; THENCE N 08E14'52" W. A DISTANCE OF 226.69 FEET; THENCE N 41E44'44" E. A DISTANCE OF 3357.00 FEET; THENCE EAST A DISTANCE OF 1200.00 FEET; THENCE SOUTH A DISTANCE OF 517.52 FEET; THENCE EAST A DISTANCE OF 7808.85 FEET TO THE EAST LINE OF SECTION 21, TOWNSHIP 34 SOUTH, RANGE 22 EAST; THENCE S 00E 17'16" W. A DISTANCE OF 2414.64 FEET TO THE S.E. CORNER OF SAID SECTION 21; THENCE S 00E08'00" E. A DISTANCE OF 5246.25 FEET TO THE POINT OF BEGINNING. LYING AND BEING IN SECTIONS 19, 20, 21, 28, 29 AND 30, TOWNSHIP 34 SOUTH, RANGE 22 EAST, MANATEE COUNTY, FLORIDA.

SUBJECT TO PERTINENT EASEMENTS RIGHTS OF WAY AND RESTRICTIONS OF RECORD

CONTAINING 1984.36 ACRES MORE OR LESS.

LESS;

DESCRIPTION: NUGULF 101 ACRE PARCEL (REVISED)

FROM THE N.E. CORNER OF SECTION 1, TOWNSHIP 35 S, RANGE 11 E, RUN N. 87E08'37" W. ALONG THE NORTH LINE OF SAID SECTION 1, A DISTANCE OF 102.88 FEET TO THE EAST RIGHT OF WAY LINE OF S.R. 39; THENCE S 00E22'15" W. ALONG SAID EAST LINE A DISTANCE OF 1050.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG SAID EAST RIGHT OF WAY LINE THE FOLLOWING FIVE COURSES; THENCE S. 00022'15" W. A DISTANCE OF 492.85 FEET TO THE P.C. OF A CURVE TO THE LEFT HAVING A RADIUS OF 5629.58 FEET: THENCE SOUTHERLY ON THE ARC OF SAID CURVE TO THE LEFT, A DISTANCE OF 1157.96 FEET THROUGH A CENTRAL ANGLE OF 11E47'07" TO THE P.T; THENCE S 11E24'52" E. A DISTANCE OF 299.77 FEET TO THE P.C. OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5829.58 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT A

DISTANCE OF 1199.10 FEET THROUGH A CENTRAL ANGLE OF 11E47'07" TO THE P.T.; THENCE S 00E22'15" W. A DISTANCE OF 547.42 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF S.R. 64; THENCE N 89E46'04" E ON SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 1836.35 FEET; THENCE N 00E22'15" E. A DISTANCE OF 1754.87 FEET; THENCE N 89E37'45" W. A DISTANCE OF 959.03 FEET; THENCE N 34E58'09" W. A DISTANCE OF 1348.48 FEET; THENCE N 00E22'15" E. A DISTANCE OF 800.00 FEET; THENCE N 89E37'45" W. A DISTANCE OF 400.00 FEET TO THE POINT OF BEGINNING.

LYING AND BEING IN SECTION 1, TOWNSHIP 35S., RANGE 21E. AND SECTION 6 TOWNSHIP 35S., RANGE 22 E., MANATEE COUNTY, FLORIDA. SUBJECT TO PERTINENT EASEMENTS, RIGHT OF WAY AND RESTRICTIONS OF RECORD.

CONTAINING 101,000 ACRES, MORE OR LESS.

LESS:

DESCRIPTION: MANFULL 80-ACRE PARCEL, PURCHASED DECEMBER 31, 2003

COMMENCING AT THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 34 SOUTH, RANGE 22 EAST, THENCE RUN S 88E 59'12" E. A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; ALSO BEING A POINT ON THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 39 (LOGUE ROAD); THENCE S 88E 59'12" E. ALONG THE NORTHERLY LINE OF SAID SECTION 31, 1300.00 FEET; THENCE S 01E 00'48" W. A DISTANCE OF 700.00 FEET; THENCE S. 88E59'12" E. A DISTANCE OF 330.00 FEET; THENCE S. 01E00'48" W. A DISTANCE OF 700.00 FEET; THENCE N. 88E59'12" W. A DISTANCE OF 330.00 FEET; THENCE S 01E00'48" W. A DISTANCE OF 700.00 FEET; THENCE N 88E59'12" W. A DISTANCE OF 650.00 FEET; THENCE S 01E00'48" W. A DISTANCE OF 900.00 FEET; THENCE N 88E59'12" W. A DISTANCE OF 631.06 FEET; THENCE N 00E39'06" E. ALONG SAID EASTERLY RIGHT OF WAY LINE OF STATE ROAD 39 (LOGUE ROAD), A DISTANCE OF 3000.06 FEET TO THE POINT OF BEGINNING.

LYING AND BEING IN SECTION 31, TOWNSHIP 34 SOUTH, RANGE 22 EAST.

CONTAINING 80.75 ACRES, MORE OR LESS

The Manfull parcel is identified as program WC 4(A) on Figure 3.

**MANATEE COUNTY  
ORDINANCE 04-21  
EXHIBIT E**

**Trucking Operation Requirements for the Wingate Creek Mine**

1. CARGO

The cargo being hauled is phosphate rock and has no specific toxicity problems which would cause special transportation problems.

2. TRUCK LIMITS

The trucks have two specific capacity limits determined by the number of axles on the tractor/trailer combination. Trucks having two trailer axles and two tractor axles shall be allowed to carry a maximum weight of 73,280 pounds, while trucks having three axles on both tractor and trailer have a maximum capacity of 80,000 pounds. No special D.O.T. emblems are required. Each truck will be identified as a Cargill truck by the use of a Cargill sign on the tailgate which will be visible from a normal safe following distance.

3. LOADING-TARE WEIGHT

The loading will take place at the Wingate Mine. Trucks will proceed to the scale upon arrival at the mine. Before entering the scales each truck will come to a complete stop. The truck will proceed onto the scale and stop when correctly positioned. The scale operator will light weigh the truck and inform the driver which material is to be loaded (pebble, concentrate, or combination of both). This weight will appear as the "tare" weight on the bill of lading. The weight is normally 22,000 - 25,000 pounds. Any variation of the tare should be reported to the plant shift supervisor.

4. LOADING-CARGO

Trucks will then proceed to the loading area. The loader operators should load a truck evenly both front to back and side to side. This will minimize the possibility of a load shift during transit. While at the piles the truck drivers will get out of their trucks and sample each bucket of material that is placed in their truck. The sample is placed in a bucket and then covered. This is important to get an accurate moisture sample. Moisture will be controlled at 8-13% to minimize dusting and excess leakage. The sample analysis will be reported on the daily production report. The

month-to-date analysis can also be found on the report. The daily production report can be found in the general manager's files and is saved four years.

5. LOADING - INSPECTION

While outside the truck each driver is responsible to make an inspection tour of his vehicle. During this tour the vehicle will be observed for tire condition, tailgate position, leakage, tail lights, tractor lights, brakes. If the driver or loader operator finds a problem with the truck it will be removed from the line until it can be repaired.

6. LOADING - TOPPING & WEIGH-OUT

Once loaded the truck will proceed to the scale for topping and weigh-out. The driver will again bring the truck to a full stop before proceeding onto the scale. This will minimize scale damage and insure weight accuracy. As the truck is weighed, the scale operator will determine if it is overweight or underweight from the aforementioned gross vehicle weights. If the truck is overweight it will be backed off the scale and dumped. The under weight trucks will be topped to the correct weight with the truck topping hopper. After topping, the truck driver will cover his load with a tarp. At no time will trucks be allowed to leave the scale untarped. This is a violation of the Florida Motor Vehicle code and will not be tolerated! The driver will proceed to the scale house where he signs to accept the load on the "load dispatch sheet" and the driver's copy of the bill of lading will be completed.

7. SCALE - OPERATION & RECORDS

The scale operator is responsible for the accuracy of the scale operation and the time intervals of all trucks dispatched. When the truck returns to the scale and the weight does not need adjustment, the operator will print this weight on the bill of lading along with the time and date. Otherwise, after the load has been adjusted, the adjusted weight will be printed on the bill of lading as the gross weight. The truck dispatch sheet will be filled in at this time. The tractor/trailer numbers; weight before topping and weight after topping; and drivers signature will be put on dispatch sheet. The final loaded weight along with the time and date will be printed on the bill of lading. The tractor/trailer numbers and driver's signature will also be placed on the bill of lading. If the time has been at least four minutes since the departure of the previous truck, the driver will be allowed to leave. If the time is less than four minutes, he will be required to remain until the correct time interval is obtained. At this time the bill of lading will be stamped again on the bottom. This will be the official departure time.

The bill-of-lading driver copies are given to the driver and include the following:

Yellow copy - Cargill Bartow or Cargill Green Bay plant records  
Pink copy - Material hauler records

The white copies of the bill of lading are kept at the scale and compiled with the truck dispatch sheets. The day's shipping will be sent to the accounting department for compilation. A shipping day starts at 07:00 AM and ends at 06:59 AM. After the data is input to the computer and the computer shipping report and bill of lading white copies are stored at Cargill. Cargill Accounting will compare truck counts leaving the Wingate Creek Mine vs. trucks received at the Cargill Bartow and Green Bay plants on a daily basis. The white copies will then be kept in storage for a minimum of five years. The truck dispatch sheets will be sent to the plant superintendent for like storage.

The truck scale will be calibrated a minimum of once every three months or whenever a discrepancy may occur between other scales that are check weighing trucks. The contractor will be Central Florida Scales or an equivalent contractor. The calibration report will be given to the Plant Superintendent who will store them for a period of two years. The trucks will be check-weighed on a periodic basis at the Cargill Bartow and Green Bay plant scales. The scales will be inspected and certified annually by the Florida D.O.T. The comparisons between the scales will be made the Cargill Bartow and Green Bay plant superintendents and sent to the mine for analysis. These will be kept in the files at the mine office. A sample bill of lading can be found in the Appendix along with a mine dispatch sheet.

8. TRUCK ROUTE

The drivers will proceed on the designated route as detailed in Manatee County Ordinance 04-21. There will be no deviation from the aforementioned. The return trip shall cover the exact route. A route map is shown on the following page.

9. TRUCK INTERVALS

The interval between trucks traveling both loaded and unloaded will be four minutes. The intervals will be monitored at the mine by the scale operator using the bill of lading and the truck dispatch sheets while the return trip will be monitored by the dispatcher from the appropriate terminal, depending on the route.

If the trucks are not at least four minutes apart, the dispatcher will detain them until the required spacing is obtained. Traffic conditions or mechanical problems can reduce speeds so that truck bunching occurs. At no time shall the spacing between trucks be less than six hundred yards. The rear truck shall be responsible to reduce



speed and widen the gap until it is sufficient. The trucks are equipped with company radios and communication is possible between the trucks and the dispatcher.

10. SAFETY MONITORS

The Material Hauler will maintain a safety monitoring staff who will travel the route continuously. During this trip the conditions of the trucks, road, weather, traffic and any defects or problems encountered will be recorded on the observation report form. The safety engineer will file these reports with his supervisor at the Material Haulers terminal. Reports will be filed by individual truck number. A sample report can be found in the Appendix. This report will be reviewed by the terminal manager and then forwarded to the Material Haulers main office for review by the safety Manager and then storage.

11. TRUCKING SCHEDULES

Trucking will not occur during school bus hours. Trucks will not leave the mine or the Cargill Bartow or Green River phosphate plants or travel on Duette Road, S.R. 37, or S.R. 62 during the time that school buses are either picking up or delivering students. The bus schedules are available from the supervisor of school bus operations. The schedules will be reviewed by Manatee County and Cargill personnel and the appropriate trucking schedule settled upon and published. The schedule will be distributed to the Cargill operations personnel, scale operator, and Material Hauler's terminal manager.

Before the start of a new school year or summer-school, Cargill will request written notice from the Supervisor of School Bus Operations and adjust the trucking schedule accordingly, with approval by Manatee County.

On scheduled school closure days and weekends the trucks will run twenty-four hours per day with the following exception:

Any truck sighting a school bus during non-school bus hours will report the occurrence to their dispatcher and the Manatee County Mining Coordinator, so the incident can be investigated and schedules amended if necessary.

12. TRUCK DRIVERS

One of the most critical parts of a safe trucking operation is the driver. The driver must be alert at all times, knowledgeable of his equipment and well trained. The Material Hauler's attitude towards obtaining, training, and maintaining a qualified staff is paramount with the management.

### 13. DRIVER APPLICANTS

An applicant for a driver's position must fulfill the following requirements.

- (1) Be able to fill out application for employment;
- (2) Posses a valid Florida commercial driver's license;
- (3) Pass a D.O.T physical examination;
- (4) Pass a material hauler road test;
- (5) Attend a material hauler orientation school and complete required examination; and
6. Complete all employment procedures as required by the Material Hauler and all regulatory agencies.

Enclosed in the appendices is a sample of a complete employment package. This package includes the following:

- (1) Application
- (2) Checklist
- (3) Insurance Enrollment Form
- (4) W-4 Form
- (5) Physical Examination Form
- (6) Request for Information - Former Employer
- (7) Record of Road Test
- (8) Certification of Road Test
- (9) Driver License Information Date
- (10) Reference Check

14. DRIVER TRAINEES

After the above information is completed the applicant will become a trainee. He will enter a training program by completing a trainee/trainer agreement. This agreement defines the trainee's responsibility, trainer's responsibility, and monetary rewards. The trainee will then perform normal duties under the observation of the trainer for a three-day training period. Each day the trainer will complete a "Trial Trip Report". This report summarizes the trainee's basic driving abilities. After the training period is over a final report and pay request is completed. The trainer will receive a basic wage while training applicant and after a successful ninety day probationary period he will receive an incentive pay for each trained driver. Copies of these forms and agreement can be found in the appendices.

15. TRAINED DRIVERS

Once the applicant has become a trained driver he is continuously monitored by the safety engineer and dispatchers. He is required to complete a trip inspection. The following is that inspection.

1. Inspect tractor/trailer license plates.
2. Insure all fluid levels are adequate.
3. Tire pressures meet minimum requirements.
4. Insure all safety equipment is in place.
5. Insure GV weights are not exceeded.

If the driver discovers a problem with the truck before or during his shift, he will return to the terminal and fill out the driver's vehicle inspection report. The vehicle will not be returned to service until the repairs are completed and the mechanic and driver check it out.

A trained driver must also be able to:

- A. Maintain efficient and safe operation of the assigned vehicle.
- B. Follow assigned routes and road maps.
- C. Operate the radio in accordance to F.C.C. and Material Hauler regulations.

- D. Maintain and keep daily logs in accordance of D.O.T. regulations.
- E. Physically and mentally load and unload freight as required.
- F. Read and comprehend computerized payroll print-outs and manifests.

In the appendices is a Driver's Vehicle Inspection Report and Driver's Dail Log.

16. DRIVER CHECK RIDES

Lastly in addition to the observation reports completed by the safety engineer, a check ride report was initiated to maintain driver awareness. A check ride can be made by the safety engineer at any time with any driver of his choosing. An evaluation form is completed by the safety engineer after the check ride. A copy of this report form is also in the appendices. This report is reviewed by the Material Hauler's manager and forwarded to the head office.

17. DRIVER PERFORMANCE

Driver performance will be reported to Cargill on a monthly basis. The report will detail any violations that have occurred during the prior month and the disciplinary actions as a result of those violations. The Material Hauler's Manager will send the written report to the General Manager of Cargill. Additionally the report should contain a status report concerning equipment status, full time driver availability, part-time driver availability, and any additional information that impacts the trucking operation.

18. TRUCK MONITORING

The trucks are equipped with a Eaton-Vorad or equivalent device that analyzes truck and driver performance. Each device records driver performance regarding following distances and truck speed over time. Periodically the information is removed from each device in the fleet and put into a computer. The computer will analyze the data and formulate a report indicating driving/operating problems.

These reports are kept in the Material Hauler's principal Florida office.

19. DRIVER DISCIPLINE

Following is the accepted procedure that is observed in case of accidents.

- a. The driver reports immediately, of accident involvement and it any bodily injury at scene.
- b. Driver remains at scene of accident until investigation is completed by law enforcement personnel, company insurance adjuster, or company personnel.
- c. The driver completes an accident report when arriving at the terminal.

Disciplinary action would be the following:

- a. Minor accidents or incidents - driver would be allowed to return to work pending any further review by company personnel.
- b. More severe accidents will result in temporary suspension pending investigation of driver record and involvement.
- c. Accidents involving drivers charged with reckless driving or driving under the influence will be immediately terminated from the company.

Incidents involving company drivers, other than accidents, will be reviewed by the appropriate company personnel and disciplinary action recommendations from those persons administered as necessary.

## 20. NOTICE OF CHANGE IN MATERIAL HAULER

Cargill shall not use more than one (1) material transportation firm at any time. Cargill shall provide written notice to Manatee County of which material transportation firm and subcontractors will be utilized. This notice shall be provided at least 30 days prior to changing material transporters or using a subcontractor unless strike or act of God requires less notice to be given.

Should Manatee County object to the selection of a particular firm or subcontractor, they shall provide written notice to Cargill at least 7 days prior to the proposed change. If such notice is issued by Manatee County to Cargill, Cargill shall not change to the new material transporter or subcontractor until the nature of the objection is reviewed by the Board of County Commissioners at a regularly scheduled meeting, at least 7 days prior to the proposed change.

Manatee County shall not issue a notice of objection without cause.



STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and  
correct copy of the documents on file in my office.

Witness my hand and official seal this 31<sup>st</sup> day of

August, 2004  
R.B. SHARZ  
Clerk of Circuit Court

By: Deane E. Vollmer, C.C.

Copies:

1- Kim Sparks, Planning

1- Municipal Code

9/10/04

D&W



FLORIDA DEPARTMENT OF STATE  
**Glenda E. Hood**  
Secretary of State  
DIVISION OF LIBRARY AND INFORMATION SERVICES

FILED ON RECORD  
R. B. SHORE  
2004 SEP 10 AM 9:32

CLERK OF CIRCUIT COURT  
MANATEE CO. FLORIDA

September 3, 2004

Honorable R. B. "Chips" Shore  
Clerk of Circuit Court  
Manatee County  
Post Office Box 25400  
Bradenton, Florida 34206

Attention: Diane E. Vollmer, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated August 31, 2004 and certified copy of Manatee County Ordinance No. 04-21, which was filed in this office on September 2, 2004.

As requested, the date stamped copy is being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/kcs

Enclosure