

Section XII Miscellaneous

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

AGENCY FOR HEALTH CARE ADMINISTRATION

DECISION ON BATCHED APPLICATION

The Agency for Health Care Administration made the following decision on a Certificate of Need application for the Other Beds and Programs batching cycle with an application due date of May 21, 2008:

County: Brevard Service District: 7

CON # 10025 Decision Date: 6/26/2008 Decision: W

Facility/Project: HCR Manor Care Services of Florida II, Inc.

Applicant: HCR Manor Care Services of Florida II, Inc.

Project Description: Establish a hospice program

Approved Cost: \$.00

A request for administrative hearing, if any, must be made in writing and must be actually received by this department within 21 days of the first day of publication of this notice in the Florida Administrative Weekly pursuant to Chapter 120, Florida Statutes, and Chapter 59C-1, Florida Administrative Code.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

The Department of Environmental Protection (Department) gives notice of its intent to issue a variance (File No. 0221122-005-EV-VE) to Mosaic Fertilizer, L.L.C., Post Office Box 2000, Mulberry, Florida 33860-1100, under subsection 373.414(17) and paragraph 403.201(1)(a), Florida Statutes (F.S.), from the provisions of subsection 62-302.530(31), Florida Administrative Code (F.A.C.), which provides minimum standards for dissolved oxygen levels in surface waters. This variance will apply to dissolved oxygen levels in

the hypolimnion (the deepest layer) in the man-made lakes proposed in environmental resource permit application No. 0221122-004.

On October 13, 2006, Mosaic Fertilizer, L.L.C. applied for an environmental resource permit and a conceptual reclamation plan for the Mosaic South Ft. Meade Hardee County Mine. The project is to conduct phosphate mining activities on approximately 7,756 acres of uplands, wetlands and other surface waters within a 10,856-acre area and to reclaim approximately 7,756 acres of uplands, wetlands and other surface waters following the completion of mining activities. On October 13, 2006, Mosaic submitted a petition for a variance, under Sections 373.414(17) and 403.201(1)(a), F.S., from the provisions of subsection 62-302.530(31), F.A.C., which provides minimum standards for dissolved oxygen levels in surface waters. The variance will be permanent.

The dissolved oxygen levels in the hypolimnion of the man-made lakes are expected to drop below the mandatory minimum of 5.0 mg/l at times. Stratification and the associated reduction of dissolved oxygen in the hypolimnion are natural phenomena in deep-water bodies, especially during warmer parts of the year. This condition is well documented in the limnological literature and recognized in Section 373.414(6)(a), F.S., which states, "[t]he Legislature recognizes that some mining activities that may occur in waters of the state must leave a deep pit as part of the reclamation. Such deep pits may not meet the established water quality standard for dissolved oxygen below the surficial layers. Where such mining activities otherwise meet the permitting criteria contained in this section, such activities may be eligible for a variance from the established water quality standard for dissolved oxygen within the lower layers of the reclaimed pit."

The low dissolved oxygen levels in the hypolimnion of the man-made lakes are not expected to result in any on-site or off-site impacts. Oxygen levels in the upper layers of the man-made lakes are expected to meet the requirements of Rule 62-302.530, F.A.C., and be adequate to support healthy fish populations. Existing man-made lakes on lands previously mined for phosphate support healthy populations of fish. Several man-made lakes are currently being managed by the Florida Fish and Wildlife Conservation Commission to provide the public recreational fishing opportunities. Once reclamation is completed, most of the man-made lakes will be connected to reclaimed and/or preserved wetlands and streams. Water exiting these man-made lakes is expected to meet the requirements for dissolved oxygen and other water quality

criteria of Rule 62-302.530, F.A.C. The water will exit from the upper surface of the man-made lakes and will flow through shallow conveyances that will provide further aeration.

There is no practicable means known or available to achieve the required dissolved oxygen levels within the deep-water pockets. Therefore, the Department intends to issue a variance pursuant to Section 403.201(1)(a), F.S., for dissolved oxygen within the hypolimnion in the proposed man-made lakes.

Under this intent to issue, this variance is hereby granted subject to the applicant's compliance with any requirement in this intent to publish notice of this intent in a newspaper of general circulation and to provide proof of such publication in accordance with Section 50.051, F.S. This action is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., as provided below. If a sufficient petition for an administrative hearing is timely filed, this intent to issue automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. When proof of publication is provided, if required by this intent, and if a sufficient petition is not timely filed, the variance will be issued as a ministerial action. Because an administrative hearing may result in the reversal or substantial modification of this action, the applicant is advised not to commence construction or other activities until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time have expired and until the variance has been executed and delivered. Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Under subsection 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard,

Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect. If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

In accordance with Sections 373.414(17) and 403.201, F.S., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) the name and address of each agency affected and each agency's file or identification number, if known; (b) the name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination; (c) a statement of when and how the petitioner received notice of the agency decision; (d) a statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) a concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or

modification of the agency's proposed action; (f) a statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and (g) a statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and 120.569(2)(d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This intent to issue a variance constitutes an order of the Department. Subject to the provisions of Section 120.68(7)(a), F.S., which may require a remand for an administrative hearing, the applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the order is filed with the Clerk of the Department.

The Department of Environmental Protection (Department) gives notice of its intent to issue a variance (File No. 0221122-006-EV-VE) to Mosaic Fertilizer, L.L.C., Post Office Box 2000, Mulberry, Florida 33860-1100, under Section 378.212, Florida Statutes (F.S.), from the provisions of paragraphs 62C-16.0051(6)(a) and 62C-16.0051(6)(b), Florida Administrative Code (F.A.C), which provides that at least 25% of the high-water surface area of each water body other than streams shall consist of an annual zone of water fluctuation to encourage emergent and transition zone vegetation; and that at least 20% of the low water surface shall consist of a zone between the annual low water line and six feet below the annual low water line to provide fish bedding areas and submerged vegetation zones. This variance will apply to the design of the man-made lakes proposed in Conceptual Reclamation Plan MOS-SFMHC-CP.

On October 13, 2006, Mosaic Fertilizer, L.L.C. applied for approval of a conceptual reclamation plan for the Mosaic South Ft. Meade Hardee County Mine. The project is to conduct phosphate mining activities on approximately 7,756 acres of uplands, wetlands and other surface waters within a 10,856-acre area and to reclaim approximately 7,756 acres of uplands, wetlands and other surface waters following the completion of mining activities. On October 13, 2006, Mosaic submitted a petition for a variance, under section 378.212, F.S., from the provisions of paragraphs 62C-16.0051(6)(a) and 62C-16.0051(6)(b), F.A.C. The variance will be permanent.

The technique that Mosaic is proposing is to design and construct the reclaimed lakes at the South Fort Meade Hardee County Mine so that the littoral zone vegetation is concentrated in several broad, shallow areas including the outlet of the man-made lakes. This will be accomplished by constructing several broad shallow shelves then planting the shelves with the herbaceous and transitional species. This design provides the environmental benefit of having the herbaceous vegetation required for the man-made lake placed so that filtration is increased for any water overflowing from the man-made lakes during stormwater events and other high water situations. By constructing the man-made lakes in this fashion, the environmental benefit of filtration is increased at the outlet. Wildlife benefits by having several more extensive wetland ecosystems concentrated around the man-made lake. Wildlife will also benefit by enhanced water quality downstream of the man-made lakes that will be more conducive to healthy fish populations, which in turn benefits wildlife that prey on the fish and other aquatic species populations. This design also provides more useable shoreline for boating, fishing and recreational activities along the remaining shoreline.

The location of the littoral zone vegetation component in several broad, shallow shelves including the outlet of the man-made lakes is not expected to result in any on-site or off-site impacts. Except for this variance, the man-made lakes are expected to meet the requirements of Rule 62C-16.0051, F.A.C., and be adequate to support healthy fish populations. Existing man-made lakes on lands previously mined for phosphate support healthy populations of fish. Several reclaimed man-made lakes are currently being managed by Florida Fish and Wildlife Conservation Commission to provide the public recreational fishing opportunities.

To encourage the development of new technology that will improve the quality of restored lands, the Department intends to issue a variance pursuant to section 378.212, F.S., from the provisions of paragraphs 62C-16.0051(6)(a) and 62C-16.0051(6)(b), F.A.C, which provides that at least 25% of the high-water surface area of each water body other than streams shall consist of an annual zone of water fluctuation; and that at least 20% of the low water surface shall consist of a zone between the annual low water line and six feet below the annual low water line. Of the four man-made lakes proposed, one met the rule requirement of 25% of littoral zone; two (2) of the lakes will have a littoral zone over 20% of the total area; and the remaining lakes will have a littoral zone of just under 14% of the total area.

Under this intent to issue, this variance is hereby granted subject to the applicant's compliance with any requirement in this intent to publish notice of this intent in a newspaper of general circulation and to provide proof of such publication in accordance with Section 50.051, F.S. This action is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., as provided below. If a sufficient petition for an administrative hearing is timely filed, this intent to issue automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. When proof of publication is provided, if required by this intent, and if a sufficient petition is not timely filed, the variance will be issued as a ministerial action. Because an administrative hearing may result in the reversal or substantial modification of this action, the applicant is advised not to commence construction or other activities until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time have expired and until the variance has been executed and delivered. Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Under subsection 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect. If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

In accordance with Section 378.212(3), F.S., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) the name and address of each agency affected and each agency's file or identification number, if known; (b) the name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or

will be affected by the agency determination; (c) a statement of when and how the petitioner received notice of the agency decision; (d) a statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) a concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action; (f) a statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and (g) a statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and 120.569(2)(d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This intent to issue a variance constitutes an order of the Department. Subject to the provisions of Section 120.68(7)(a), F.S., which may require a remand for an administrative hearing, the applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the order is filed with the Clerk of the Department.

NOTICE OF AVAILABILITY

LIVE OAK, FLORIDA

The Department of Environmental Protection has determined that Live Oak's proposed project to expand the existing wastewater treatment and reuse facilities will not have a significant adverse impact on the environment. The total estimated construction cost is \$12,600,000. The project is expected to qualify for a State Revolving Fund loan composed of federal and state matching funds.

A full copy of the Florida Categorical Exclusion Notice can be obtained by writing to: Thomas Montgomery, Bureau of Water Facilities Funding, Department of Environmental Protection, 2600 Blair Stone Road, MS #3505, Tallahassee, Florida 32399-2400 or by calling (850)245-8358.

FLORIDA STATE CLEARINGHOUSE

The state is coordinating reviews of federal activities and federally funded projects as required by Section 403.061(40), F.S. A list of projects, comments deadlines and the address for providing comments are available at: <http://approd.dep.state.fl.us/clearinghouse/>. For information, call (850)245-2161. This public notice fulfills the requirements of 15 CFR 930.

DEPARTMENT OF HEALTH

On June 26, 2008, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with the regard to the license of Kenneth William Kavanaugh, C.N.A., license number CNA 118659. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.
