

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

<p>IN THE MATTER OF:</p> <p>Mosaic Fertilizer, LLC Green Bay Phosphate Complex FLD 043 055 003 Bartow, Florida 33841</p> <p>Mosaic Fertilizer, LLC New Wales Facility FLD 084 717 545 Mulberry, Florida 33860</p> <p>Mosaic Fertilizer, LLC Riverview Complex FLD 064 696 107 Tampa, Florida 33569</p> <p>RESPONDENT</p>	<p>Docket Number: 04-2010-4000(b)</p> <p>Proceeding Under Section 3008(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a)</p> <p style="text-align: right;">2009 NOV -9 AM 11:08 HEARING CLAIM ENVIRONMENTAL</p>
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CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921-6939c, as adopted under 3006(b) of RCRA, 42 U.S.C. § 6926(b), by the State of Florida, with the requirements of the State program found in § 403.701 *et seq.* Florida Statute (F.S.) and Chapter 62-730, Florida Administrative Code (F.A.C.). This action is seeking injunctive relief pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO) [40 C.F.R. §§ 22.13(b) and 22.18(b)(2)].
3. A previous CAFO, Docket No.: RCRA-04-2007-4005(b), was entered into by the parties on September 13, 2007. This CAFO supersedes and closes that CAFO as of its effective date.
4. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18, and desire to settle this action. Accordingly,

before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CAFO. Respondent hereby agrees to comply with the terms of this CAFO.

II. THE PARTIES

5. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, United States Environmental Protection Agency (EPA), Region 4.
6. Respondent, Mosaic Fertilizer, LLC, has operated phosphoric acid manufacturing facilities at, among other locations, 4390 State Road 640 West, Bartow, FL 33841 (the Green Bay facility); 3095 County Road 640 West, Mulberry, FL 33860 (the New Wales facility); and 8813 U.S. Highway 41 South, Riverview, FL 33578 (the Riverview facility). Respondent has idled the phosphoric acid manufacturing plant at its Green Bay facility, and has submitted a closure permit application to the Florida Department of Environmental Protection (FDEP) at FDEP's request under Rule 62-673.600, F.A.C. for its phosphogypsum stack system at that facility. The term "phosphogypsum stack system" as used herein shall be as defined in Rule 62-673.200(15), F.A.C., as effective on July 19, 2006.

III. PRELIMINARY STATEMENTS

7. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the State of Florida (the State) is authorized to carry out a hazardous waste program in lieu of the federal program. The requirements of the authorized state program are found in § 403.701 *et seq.* F.S., and Chapter 62-730, F.A.C.
8. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states upon their federal effective date regardless of the states' authorization status. On February 12, 1985, the State received authorization for its base RCRA program and the State received authorization for its corrective action program on November 17, 2000.
9. Although EPA has granted the State of Florida the authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and the State.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. 6928(a)(2), Complainant has given notice of this action to the State of Florida before issuance of this CAFO.
11. Respondent, Mosaic Fertilizer, LLC is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.

12. Respondent is the "owner" and "operator" of the Green Bay "facility" the New Wales "facility," and the Riverview "facility" as those terms are defined in 40 C.F.R. § 260.10.

IV. EPA ALLEGATIONS AND DETERMINATIONS - GREEN BAY

13. The Green Bay facility is approximately 2,545 acres and is located at 4390 State Road 640 West, in Bartow, Florida. The existing phosphogypsum stack system at this facility is approximately 833 acres. The facility began operation in 1965 under the ownership of Farmland Industries, Inc. Primary operations at that time included one production line for the manufacture of phosphoric acid. In 1971, a second fertilizer production plant was constructed within the chemical complex. In November 1991, a joint venture known as Farmland Hydro Limited Partnership was formed between Norsk Hydro USA, Inc., and Farmland Industries, Inc. Farmland Hydro, LLP purchased an ammonia terminal and pipeline from Seminole Fertilizer Corporation. Farmland Hydro, LLP manufactured sulfuric acid (SAD), phosphoric acid (PAD), diammonium phosphate (DAP), and monoammonium phosphate (MAP) products. Cargill Fertilizer, Inc. purchased the facility in 2002 and continued the previous manufacturing operations. Effective June 1, 2004, Cargill Fertilizer, Inc. transferred and conveyed to Cargill Fertilizer, LLC substantially all of the assets and liabilities comprising Cargill's phosphate mining and manufacturing business, including all mine properties and manufacturing facilities owned by Cargill in Florida, and more specifically including the Green Bay facility. On October 22, 2004, concurrent with the merger of the Cargill fertilizer business with IMC Global, the name of Cargill Fertilizer, LLC was changed to Mosaic Fertilizer, LLC. Mosaic Fertilizer, LLC is the 100% owner of the Green Bay facility.
14. In May 2006, Respondent idled the phosphoric acid manufacturing plant and ceased all production operations at the Green Bay facility.
15. During the time that phosphoric acid was produced at Respondent's Green Bay facility, it was produced by reacting sulfuric acid with phosphate rock (calcium fluoroapatite). The reaction produced phosphoric acid and calcium sulfate, commonly referred to as gypsum. During the reaction, precipitated crystals of gypsum were separated from the acid via filtration and rinsed to recover residual phosphoric acid. After rinsing, the gypsum was slurried with water and pumped to the lined expansion gypsum storage stack (gypstack).
16. The gypsum slurry flowed through an elevated ditch, called a rim ditch, into one of two ponded compartments atop the stack. After the gypsum settled out in the rim ditch and pond, the decanted process water is routed into the cooling pond system via pipe and seepage collection and return water ditch that surrounds the stack. The cooling pond system is divided into a north and south pond with water levels controlled by concrete spillways. The cooling pond system receives the decanted process water and seepage water from the active gypsum storage stack as well as, while the plant was in operation, heated water from the plant.

17. Typically, leachate from gypsum storage stacks and process water from the production of phosphoric acid typically contains metals such as arsenic and cadmium and, without neutralization, is characteristically corrosive with a pH of less than 2.
18. The Green Bay facility currently has one unlined (closed) gypsum storage stack and one lined gypsum stack. Management of the lined phosphogypsum stack non-contact process wastewater, treated process cooling pond water and stormwater are authorized under the facility Wastewater Permit issued under the provisions of Chapter 403, F.S. Wastewater Permit No. FL0000752, and incorporates applicable regulatory requirements for FDEP's wastewater program, phosphogypsum management requirements, and its state authorized NPDES program under Section 402 of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*
19. Some of the materials that have been placed into the stacks and ponds at the Green Bay facility include process wastewater from phosphoric acid production and/or phosphogypsum from phosphoric acid production, both of which are exempt from classification as a hazardous waste by the Bevill exclusion for certain mineral processing wastes set forth in 40 C.F.R. 261.4(b)(7)(ii)(D),(P).
20. Complainant alleges that hazardous wastes not exempt from regulation under RCRA were also placed into these stacks and/or ponds referenced in Paragraph 18, above. Complainant also alleges that the transportation of the liquid material referred to in Paragraph 21 below, from the Green Bay facility to the New Wales facility includes the transport of materials classified as hazardous waste and that any such transportation is in violation of the requirements of 40 C.F.R. Part 263 and the corresponding state regulations found at Rule 62-730.170, F.A.C. For purposes of this CAFO, Respondent neither admits nor denies the foregoing allegations and specifically reserves the right to contest the allegations in any other legal action or proceeding, and its entry into this CAFO shall not constitute an admission of any sort with respect to such allegations.
21. As part of its closure plan set forth in the closure permit application for the Green Bay facility and the water management plan required by Chapter 62-672.780(8), F.A.C., Respondent has included the transport by tanker truck of process wastewater (P_2O_5 solution) from its phosphogypsum stack system at the Green Bay facility to the phosphogypsum stack system at its New Wales facility as a mutually beneficial solution to process wastewater inventory imbalance issues at each facility. The New Wales facility is an active facility, regulated by the FDEP under wastewater Permit No. FL0036421, engaged in the production of phosphoric acid and process wastewater transported from the Green Bay facility's phosphogypsum stack system can be consumed in the New Wales phosphoric acid production process. This transport is environmentally beneficial in a number of ways including: (i) it reduces the volume of process wastewater in the Green Bay facility's phosphogypsum stack system and therefore facilitates the expeditious closure of that facility and (ii) it reduces the need of the New Wales facility to utilize fresh groundwater.

V. EPA ALLEGATIONS AND DETERMINATIONS - RIVERVIEW

22. The Riverview facility is approximately 2085 acres and is located at 8813 U.S. Highway 41 South, Riverview, Florida 33578. The existing phosphogypsum stack system is approximately 1060 acres. The facility began operation in 1924 under the ownership of US Export Chemical Corporation. Tennessee Corporation purchased the facility in 1927 and operated it for the next 42 years. In 1970, Cities Services Company purchased the facility from Tennessee Corporation. Cities Services sold the facility to Gardinier, Inc. in 1973. Cargill Fertilizer, Inc. purchased the facility from Gardinier, Inc. in 1985. Effective June 1, 2004, Cargill Fertilizer, Inc. transferred and conveyed to Cargill Fertilizer, LLC substantially all of the assets and liabilities comprising Cargill's phosphate mining and manufacturing business, including all mine properties and manufacturing facilities owned by Cargill Fertilizer, Inc. in Florida, and more specifically including the Riverview facility. On October 22, 2004, concurrent with the merger of the Cargill Fertilizer, LLC with IMC Global, the name of Cargill Fertilizer, LLC was changed to Mosaic Fertilizer, LLC. Mosaic Fertilizer, LLC is the 100% owner of the Riverview facility.
23. Riverview is currently an operating facility with an operating phosphoric acid manufacturing plant.
24. Phosphoric acid is produced at the Riverview facility by reacting sulfuric acid with phosphate rock (calcium fluoroapatite). The reaction produces phosphoric acid and calcium sulfate, commonly referred to as gypsum. During the reaction, precipitated crystals of gypsum are separated from the acid via filtration and rinsed to recover residual phosphoric acid. After rinsing, the gypsum is slurried with water and pumped to the lined gypstack.
25. The gypsum slurry flows through an elevated ditch, called a rim ditch, into one of two ponded compartments atop the stack. After the gypsum settles out in the rim ditch and pond, the decanted process water is routed into the cooling pond system via a seepage collection and return water ditch that surrounds the stack. The cooling pond system is divided into a north and south pond with water levels controlled by concrete spillways. The cooling pond system receives the decanted process water from the active gypsum storage stack as well as heated water from the plant.
26. Typically, leachate from gypsum storage stacks and process water from the production of phosphoric acid typically contains metals such as arsenic and cadmium and, without neutralization, is characteristically corrosive with a pH of less than 2.
27. The Riverview facility currently has one unlined (closed) gypsum storage stack and one lined active stack. Management of the active phosphogypsum stack, non-contact process wastewater, treated process cooling pond water and storm water

are authorized under the facility's Wastewater Permit No. FL0000761, issued under the provisions of Chapter 403, F.S.

28. Some of the materials that have been placed into the stacks and ponds at the Riverview facility include process wastewater from phosphoric acid production and/or phosphogypsum from phosphoric acid production, both of which are exempt from classification as a hazardous waste by the Bevill exclusion for certain mineral processing wastes set forth in 40 C.F.R. § 261.4(b)(7)(ii)(D),(P).
29. In 2004, the Riverview facility received a total 68.82 inches of rainfall, with much of the rainfall coming during July, August, and September and some of which came during hurricane events. These extreme conditions caused a loss of storage capacity in the active phosphogypsum stack system and, during Hurricane Frances, a breach at the top of a phosphogypsum berm, which ultimately resulted in the release of untreated process water. FDEP issued a notice of noncompliance with Rules 62- 672.750 and 62-672.780, F.A.C., pertaining to the operation and management of the phosphogypsum stack system.
30. Respondent entered into a Consent Order with FDEP on September 2, 2004. The State Consent Order was amended on July 1, 2005, to address additional process water management requirements and other matters following the September 5, 2004, release of process water from the Riverview phosphogypsum stack system related to the high winds and accompanying rainfall from Hurricane Frances.
31. Recent rainfall events, lower production rates and ongoing construction activities at the Riverview facility have caused a decline in process water containment capacity within the phosphogypsum stack system. These conditions may warrant Respondent's use of reverse osmosis technology and transport of process water to address the reduction in process water storage capacity.

VI. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the Parties agree to the following:

32. For the purposes of this CAFO, and pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, Respondent admits the jurisdictional allegations set out in Paragraphs 1-12 above.
33. Respondent neither admits nor denies the factual allegations set out in this CAFO.
34. Respondent waives any right it may have to contest the allegations and its right to appeal the proposed Final Order accompanying this Consent Agreement.
35. Respondent waives any right it may have to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on any issue related to the Paperwork Reduction Act.

36. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CAFO.
37. The Parties agree that compliance with the terms of this CAFO shall resolve only the RCRA violations of the implementing State and Federal regulations alleged in this CAFO that are related to the transport of process wastewater by tanker truck from Respondent's Green Bay and Riverview phosphogypsum stack systems to its New Wales or Green Bay facilities.
38. Based on the facts alleged in Paragraphs 13-31 above, and Respondent's agreement to implement the Injunctive Relief established in Section VII below, and for other reasons as justice requires, EPA assesses a \$0 penalty with this case.
39. Each Party will pay its own costs and attorneys' fees.

VII. INJUNCTIVE RELIEF

40. Respondent shall undertake the transfer activities described in Paragraphs 21 and 31 in accordance with the following requirements:
 - a. Respondent shall comply with all requirements in any permits, including any closure permits, issued by FDEP.
 - b. In order to safely maintain and manage its process water containment areas, Respondent shall, as needed, comply with all requirements for the transfer of process water between the Green Bay, New Wales, and Riverview phosphogypsum stack systems in accordance with FDEP Wastewater Permits No: FL0000752, FL0036421, and FL0000761, respectively, as of the effective date of this CAFO, and Respondent shall comply with all requirements as may be issued or revised by EPA and/or FDEP for such transfer and reuse/use.
 - c. If reverse osmosis (RO) treatment is used at the Riverview facility, Respondent shall manage the discharge of permeate in accordance with FDEP Industrial Wastewater Permit No. FL000761. Additionally, Respondent must comply with all requirements for RO treatment at the Riverview phosphogypsum stack system in the same manner as required by the March 27, 2009, Consent Agreement and Final Order, Docket No. RCRA-04-2009-4005(b), entered into between the U.S. EPA and Respondent, for the Green Bay and Bartow facilities and which is attached to this Order as Attachment A.

- d. All loading of tanker trucks at the Green Bay and Riverview facilities shall take place at loading bays in areas that are covered, curbed and contained, and that return any spillage via sump to the regional reverse osmosis treatment unit feed line or to the phosphogypsum system at the Green Bay and Riverview facilities.
 - e. To minimize the possibility of any spillage, Respondent shall utilize automated fill controls that are linked to the shipping documents that are printed at the loading bay.
 - f. Respondent shall utilize a unified truck tank designed to match its unified loading apparatus (tire chalk, drop down hose and connector, valves, pipes, pump operator remote start/driver acknowledgement screen, flow measurement, shipping document, etc.) to minimize load time and maximize the safety and environmental protectiveness of the loading process.
 - g. Respondent shall ensure that there is adequate vehicle maneuvering area for the tanker trucks at the Green Bay and Riverview facilities.
 - h. Respondent shall ensure that there is continuous monitoring of the loading area by the facility's security staff, which may be conducted by a remote video camera.
 - i. Respondent shall ensure that the transportation of the materials from the Green Bay or Riverview facilities to the New Wales or Green Bay facilities is undertaken in accordance with all applicable requirements of the United States Department of Transportation for the transport of hazardous materials found at 49 C.F.R. Parts 171-179, including all applicable requirements of the Hazardous Materials Transportation Act of 1975, and the regulations thereunder, including the requirements for Class 8-Corrosives.
 - j. Respondent shall maintain daily records of the quantity of materials transported under the terms of this agreement at the Green Bay and Riverview facilities and shall make these records available to EPA and/or FDEP upon request.
 - k. Respondent shall ensure that the unloading of the materials into the phosphogypsum stack system at the New Wales or Green Bay facility is undertaken in a manner that minimizes the possibility of any spills.
41. Respondent shall provide EPA and FDEP with the appropriate documentation to certify that Respondent is complying with the requirements set forth in Paragraph 40 above within 60 calendar days of the effective date of this CAFO. The certification and supporting documentation should be provided to:

Larry L. Lamberth, Chief
South RCRA and OPA Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

John Coates, P.E., Chief
Bureau of Mining and Minerals Regulation
Florida Dept. of Environmental Protection
Division of Water Resource Management
Bureau of Mine Reclamation
Collins Building
2051 E. Dirac Drive
Tallahassee, Florida 32310

Tim J. Bahr, Administrator
Hazardous Waste Regulation
Florida Dept. of Environmental Protection
Division of Waste Management
Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

VIII. RESERVATION OF RIGHTS

42. Notwithstanding any other provision of this CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at, to or from the Green Bay facility, the New Wales facility, or the Riverview facility may present an imminent and substantial endangerment to human health or the environment.
43. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CAFO.
44. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants

found at, taken to, or taken from the Green Bay facility, New Wales facility, or the Riverview facility.

45. This CAFO may be amended or modified only by written agreement executed by both the EPA and Respondent.

IX. OTHER APPLICABLE LAWS

46. All actions required to be taken pursuant to this CAFO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. PARTIES BOUND

47. This CAFO shall be binding upon Respondent and its successors and assigns, Respondent shall cause its officers, directors, employees, agents and all persons, including independent contractors, contractors and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CAFO.
48. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CAFO.
49. The undersigned representative of Respondent hereby certifies that he is fully authorized to enter into this CAFO and to execute and legally bind Respondent to this CAFO.

XI. SERVICE OF DOCUMENTS

50. A copy of any document that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Joan Redleaf Durbin
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909
(404) 562-9544

A copy of any documents that Complainant files in this action shall be sent to the following individual who is authorized to receive service for the Respondent in this proceeding:

James K. Voyles
Senior Environmental and Corporate Counsel
The Mosaic Company
5000 Old Highway 37 South
Mulberry, Florida 33860
Phone: (863) 428-6482
Fax: (863) 428-2676

XII. SEVERABILITY

51. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

XIII. TERMINATION

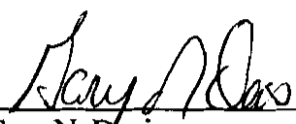
52. This CAFO will terminate when Respondent notifies Complainant that Respondent is no longer engaged in the transfer activities described in this CAFO; provided, however, Complainant may terminate this CAFO in its sole discretion prior to that time by providing 90 day written notice to Respondent.

XIV. EFFECTIVE DATE

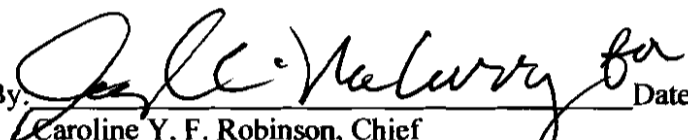
53. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Mosaic Fertilizer, LLC

By:  Date: 10/30/09
Gary N. Davis
Vice President-Phosphate Operations

U.S. Environmental Protection Agency

By:  Date: 11/6/09
Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

IN THE MATTER OF:

Docket Number: 04-2010-4000(b)

Mosaic Fertilizer, LLC
Green Bay Phosphate Complex
FLD 043 055 003
Bartow, Florida 33841

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

Mosaic Fertilizer, LLC New Wales Facility
FLD 084 717 545
Mulberry, Florida 33860

Mosaic Fertilizer, LLC Riverview Complex
FLD 064 696 107
Tampa, Florida 33569

RESPONDENT

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 6th day of November, 2009.

BY: A. Stanley Meiburg
A. Stanley Meiburg,
Acting Regional Administrator

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Mosaic Fertilizer, LLC, Green Bay, New Wales and Riverview Facilities, Docket Number: RCRA-04-2010-4000(b), on NOV 09 2009, 2009, and on NOV 09 2009, 2009, served the parties listed below in the manner indicated:

Joan Redleaf Durbin
Associate Regional Counsel
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

(Via EPA's internal mail)

James K. Voyles
P.O. Box 2000
5000 Old Highway 37 South
Mulberry, Florida 33860

(Via Certified Mail - Return Receipt Requested)

Date:

11/9/09



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511

Attachment A-

**Administrative Order on Consent
Mosaic Corporation
March 27, 2009
Docket No: RCRA-04-2009-4005(b)**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 27 2009

James K. Voyles
Senior Environmental and Corporate Counsel
The Mosaic Company
5000 Old Highway 37 South
Mulberry, FL 33860

Re: Mosaic Fertilizer, LLC, Consent Agreement and Final Order
Docket No. RCRA-04-2009-4005(b)

Dear Jim,

Enclosed, please find the executed Consent Agreement and Final Order (CA/FO) addressing the current violation of the Resource Conservation and Recovery Act alleged by EPA against Mosaic for its practice of disposing the reverse osmosis reject into its phosphogypsum stack system. As a reminder, the Effective Date of this CA/FO is the date it is filed with the Regional Hearing Clerk. Payment of the \$10,000 penalty is due within 30 days of the Effective Date of the CA/FO.

Thank you for your assistance in getting this matter resolved. If you have any questions, please call me at (404) 562-9544.

Sincerely,

A handwritten signature in black ink that reads "Joan Redleaf Durbin".

Joan Redleaf Durbin
Senior Attorney
US EPA, Region 4

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

IN THE MATTER OF:)	Docket Number: RCRA-04-2009-4005(b)
)	
Mosaic Fertilizer, LLC)	
Green Bay Phosphate Complex)	
4390 State Road 640 West)	
Bartow, Florida 33841)	Proceeding Under Section 3008(a) of the
)	Resource Conservation and Recovery Act,
FLD 043 055 003)	42 U.S.C. § 6928(a)
)	
Mosaic Fertilizer, LLC)	
Bartow Phosphate Complex)	
3200 Highway 60 West)	
Bartow, Florida 33830)	
)	
FLD 003 952 033)	
)	
RESPONDENT)	

5/15/17 13:00:00

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering Respondent to address violations of Subtitle C alleged in this CAFO, of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921-6939c, as adopted under 3006(b) of RCRA, 42 U.S.C. 6926(b), by the State of Florida, with the requirements of the State program found in Florida Statute § 403.701 *et seq.* and Florida Administrative Code (F.A.C.) Chapter 62-730. This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22*, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO) [40 C.F.R. §§ 22.13(b) and 22.18(b)(2)].

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18, and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CAFO. Respondent hereby agrees to comply with the terms of this CAFO.

II. THE PARTIES

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, United States Environmental Protection Agency (EPA), Region 4.
5. Respondent is Mosaic Fertilizer, LLC (“Mosaic” or “Respondent”), a Delaware limited liability company doing business in the State of Florida.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the State of Florida is authorized to carry out a hazardous waste program in lieu of the federal program. The requirements of the authorized state program are found in Florida Statute § 403.701 *et seq.* and F.A.C. Chapter 62-730.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states upon their federal effective date regardless of the states’ authorization status.
8. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), sets forth the requirements for facilities that treat, store, or dispose of hazardous waste, and prohibits the treatment, storage, or disposal of hazardous waste without interim status or a permit issued pursuant to RCRA. The implementing regulations for this requirement are found in 40 C.F.R. Parts 124, 264, 265 and 270. The regulations became effective on November 19, 1980, and the Florida regulations became enforceable by EPA on February 12, 1985, when the State received final authorization for 40 C.F.R. Parts 124, 260 through 265 and 270.
9. Although EPA has granted the State of Florida the authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and the State.

10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State of Florida before issuance of this CAFO.

IV. EPA ALLEGATIONS AND DETERMINATIONS

11. Respondent, Mosaic Fertilizer, LLC is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.
12. Respondent is the “owner” and “operator” of the Green Bay “facility” and the Bartow “facility,” as those terms are defined in 40 C.F.R. § 260.10.

Mosaic Green Bay Facility

13. The Green Bay facility is approximately 2,545 acres and is located at 4390 State Road 640 West, in Bartow, Florida.
14. The Green Bay facility began operation in 1966 under the ownership of Farmland Industries, Inc. In November 1991, a joint venture known as Farmland Hydro Limited Partnership was formed between Norsk Hydro USA Inc., and Farmland Industries, Inc. Cargill Fertilizer, Inc., a predecessor in interest to Cargill Fertilizer, LLC, purchased the Facility from Farmland Hydro, LLP in 2002. On October 22, 2004, concurrent with the merger of the Cargill fertilizer business with IMC Global, the name of Cargill Fertilizer, LLC was changed to Mosaic Fertilizer, LLC. Mosaic Fertilizer, LLC is the 100% owner of the Green Bay facility.
15. Respondent has ceased manufacturing operations at its Green Bay facility, and has submitted a closure permit application to the Florida Department of Environmental Protection (FDEP) at FDEP’s request under Florida Administrative Code (F.A.C.) 62-673.600(5) for its phosphogypsum stack system at that facility. The term “phosphogypsum stack system” as used herein shall be as defined in Rule 62-672.200(15), Florida Administrative Code (F.A.C.), as effective on July 19, 2006.
16. The Green Bay facility currently has one unlined (closed) gypsum storage stack (“gypstack”) and one lined gypstack. Management of the lined gypstack, non-contact process wastewater, treated process cooling pond water and stormwater are authorized under the facility Wastewater Permit issued under the provisions of Chapter 403, Florida Statutes. Wastewater Permit No. FL0000752 was issued by the FDEP on August 10, 2001, and expired on August 9, 2006. A renewal permit was issued on October 15, 2008, and is set to expire October 14, 2013. This Permit incorporated applicable regulatory requirements for FDEP’s wastewater program and its state authorized NPDES program under Section 402 of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*

17. During the time that phosphoric acid was produced at its Green Bay facility, it was produced by reacting sulfuric acid with phosphate rock. The reaction produced phosphoric acid and a by-product, calcium sulfate, commonly referred to as gypsum. During the reaction, precipitated crystals of gypsum were separated from the acid via filtration and rinsed to recover residual phosphoric acid. After rinsing, the gypsum was slurried with water and pumped to one of two ponded compartments atop the lined expansion gypstack.
18. After the gypsum settled out in the ponded compartments, the decanted process water was discharged into the cooling pond system via a seepage collection and return water ditch that surrounds the stack. During production, the cooling pond system also received process wastewater from the production of phosphoric acid. Currently, in addition to stormwater infiltration, the cooling pond system also receives leachate from the gypstacks. Hereafter, the cumulative water in the phosphogypsum stack system is referred to as "pond water."
19. Leachate from gypstacks and process wastewater from phosphoric acid production typically contain metals such as arsenic and cadmium and, without neutralization, exhibit the characteristic of corrosivity with a pH of less than 2.
20. Some of the materials that have been placed into the stacks and ponds at the Green Bay facility, such as process wastewater from phosphoric acid production and/or phosphogypsum from phosphoric acid production are exempt from classification as a hazardous waste by the Bevill exclusion for certain mineral processing wastes set forth in 40 C.F.R. § 261.4(b)(7)(ii)(D)(P).
21. Complainant alleges that certain hazardous wastes not exempt from regulation under RCRA were generated from the production of monoammonium phosphate and diammonium phosphate fertilizers and other facility operations and were also placed into the stacks and/or ponds referenced in Paragraphs 16 through 18, above. These claims are the subject of EPA's National Mining and Mineral Processing Initiative, and are not addressed by this CAFO. Pursuant to that Initiative, EPA and Respondent are engaged in serious, good faith negotiations to enter into an Agreement that will require additional management and financial assurance requirements for Respondent's phosphogypsum stack systems, in addition to compliance with Florida Regulations.
22. As part of its closure plan set forth in the closure permit application for the Green Bay facility and the water management plan required by Chapter 62-673 F.A.C., Respondent has included the operation of a Reverse Osmosis (RO) system for the treatment of pond water through reverse osmosis membranes for separation into a purified water stream ("permeate") and a concentrated pond water stream ("reject"). Respondent returns the reject stream to the phosphogypsum stack system and discharges the permeate to the Alafia River watershed authorized by Permit No. FL0000752. The RO system receives pond water inputs from

Respondent's Green Bay phosphogypsum stack system and from the Regional Holding Pond, which has commingled process wastewater from the Bartow, Mulberry, and Green Bay facilities.

23. The pond water and the RO reject are solid wastes as that term is defined in 40 C.F.R. § 261.2.
24. Treatment of pond water in the RO system is "treatment" pursuant to 40 C.F.R. § 260.10
25. Residuals from the treatment of pond water in the RO system are not exempt from classification as a hazardous waste by the Bevill exclusion for certain mineral processing wastes set forth in 40 C.F.R. § 261.4(b)(7)(ii)(D)(P).
26. Complainant alleges that the reject stream from the RO treatment of pond water, without neutralization, would be characteristically corrosive where there is a pH of less than 2, and thus would be a hazardous waste (EPA hazardous waste code D002) as that term is defined in 40 C.F.R. § 261.3.
27. Further, Complainant alleges that the RO reject stream was discharged into the gypstacks and/or ponds referenced in Paragraph 18, above, at a pH of less than 2, and thus was a hazardous waste (EPA hazardous waste code D002) as that term is defined in 40 C.F.R. § 261.3.
28. By disposing of the D002 RO reject at a pH of less than 2, without interim status or a permit, Respondent is in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and the applicable requirements promulgated pursuant thereto and found at 40 C.F.R. Parts 260-270. This is the violation addressed by this CAFO.
29. For purposes of this CAFO, Respondent neither admits nor denies the foregoing allegations and specifically reserves the right to contest the allegations in any other legal action or proceeding, and its entry into this CAFO shall not constitute an admission of any sort with respect to such allegations.

Mosaic Bartow Facility

30. The Bartow facility is approximately 8,500 acres and is located at 3200 State Road 60 West, Bartow, Florida 33830.
31. The Bartow facility has been in operation for over sixty (60) years. Industrial activities have included both phosphate mining and fertilizer manufacturing. Cargill Fertilizer, Inc., a predecessor in interest to Cargill Fertilizer, LLC, purchased the Facility from Seminole Fertilizer Corporation in 1993. On October 22, 2004, concurrent with the merger of the Cargill fertilizer business with IMC Global, the name of Cargill Fertilizer, LLC was changed to Mosaic Fertilizer,

LLC. Mosaic Fertilizer, LLC is the 100% owner of the Bartow facility. Wastewater Permit No. FL0001589 was issued by the FDEP on February 17, 2004, and expires on February 16, 2009. At present, facility operations include the production of sulfuric acid, phosphoric acid, fluorosilicic acid (FSA), monoammonium phosphate ("MAP") and diammonium phosphate ("DAP").

32. On May 23, 2002, Cargill Fertilizer, Inc., entered into a Services Agreement ("contract") with FDEP to maintain and close the phosphogypsum stack system formerly operated by Mulberry Phosphates, Inc. (DEP Contract No. EXC005). Closure of the phosphogypsum stack system includes, among other things, the transfer of process wastewater from the Mulberry facility to Respondent's Bartow facility for consumption of the process wastewater at Respondent's Bartow facility, stack system closure activities, and post-closure activities.
33. In 2005, Respondent constructed an above-grade, high density polyethylene (HDPE) lined 173-acre Regional Process Water Storage Pond, located immediately east of Bonnie Mine Road between State Road 60 and County Road 640, south of the cities of Bartow and Mulberry, in Polk County. The purpose for constructing and operating the pond was to provide additional pond water surge capacity for Mosaic's Bartow and Green Bay phosphate production complexes, and the former Mulberry Phosphates facility.
34. In 2008, Respondent began construction of a "new" RO unit at the Bartow Chemical Plant that may be used to treat process wastewater or pond water from Respondent's phosphogypsum stack systems, including but not limited to, the Regional Process Water Storage Pond, stack systems at the former Mulberry facility, the Respondent's Nichols, Green Bay, Bartow, New Wales, Riverview, and South Pierce facilities. The RO unit will be used to treat pond water to maintain or improve water balance and to facilitate closure at non-operational facilities. According to Mosaic, the RO permeate will be discharged into the Alafia River pursuant to a valid NPDES permit and the reject will be returned to the phosphogypsum stack system.
35. The use of RO is environmentally beneficial in a number of ways including: (i) it reduces the volume of process wastewater in a facility's phosphogypsum stack system recovering storage capacity and facilitating the dewatering of a stack system in order to more expeditiously perform closure construction activities, (ii) it affords a cleaner effluent than the traditional method of wastewater treatment via two-stage liming (double liming), and (iii) it provides an alternative wastewater treatment method to manage pond water inventories which may ultimately reduce the generation of larger quantities of lime sludge and settling ponds from the double lime treatment process.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the Parties agree to the following:

36. For the purposes of this CAFO, and pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, Respondent admits the jurisdictional allegations set out in Paragraphs 1-10 above.
37. Respondent neither admits nor denies the factual allegations and legal conclusions set out in this CAFO.
38. Respondent waives any right it may have to contest the allegations and its right to appeal the proposed Final Order accompanying this Consent Agreement.
39. Respondent waives any right it may have to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on any issue related to the Paperwork Reduction Act.
40. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CAFO.
41. As a result of EPA's National Mining and Mineral Processing Initiative, EPA and Respondent are engaged in serious, good faith discussions on the appropriate future handling of RO reject. Until such time as those discussions are complete or this Agreement otherwise terminates in accordance with Paragraph 60 of this CAFO, Respondent will ensure RO reject is placed within Respondent's phosphogypsum stack system in accordance with the Requirements set forth in Paragraph 42 below

INJUNCTIVE RELIEF

42. Respondent may undertake the RO activities described in Paragraphs 22 and 34 provided that Respondent complies with the following requirements:
 - a. Respondent shall comply with all requirements in any wastewater permits, including any closure permits, issued by FDEP for the Respondent's facilities identified herein.
 - b. Input to RO systems at Respondent's facilities shall only treat pond water from the sources identified in Paragraphs 22 and 34 unless otherwise approved by EPA and FDEP.

- c. Respondent will ensure RO reject is only placed within Respondent's associated phosphogypsum stack system or transferred from Respondent's Green Bay facility to the Respondent's New Wales facility. If RO reject is transferred from Respondent's Green Bay facility to Respondent's New Wales facility, Respondent shall comply with the terms of management and transport set forth in RCRA Docket No.: RCRA-04-2007-4005(b).
 - d. Barring acts of God, Respondent will ensure that RO reject is not released into the environment outside the Respondent's phosphogypsum stack systems which are subject to FDEP Wastewater Permit Nos. FL0000752 and FL0001589.
 - e. Respondent shall minimize the potential for RO system failure by ensuring that there is daily monitoring including documented inspections of the reverse osmosis treatment process, which may be conducted remotely.
 - f. Any RO system operational failure and subsequent remedy shall be documented in a facility log and made available to EPA and/or FDEP upon request.
 - g. Respondent shall prepare a Spill Response Plan that addresses the method by which Respondent will address any planned or unplanned releases of hazardous RO reject. At a minimum, the plan shall describe actions to be taken to contain and de-characterize RO reject and/or contain and return the reject via sump to the corresponding reverse osmosis treatment unit feed line or to the phosphogypsum stack system. The plan shall be made available to EPA and/or FDEP upon request.
 - h. Respondent shall maintain daily records of the approximate or measured volume of pond water in the RO feed, permeate, and reject streams under the terms of this agreement and shall make these records available to EPA and/or FDEP upon request.
43. Respondent shall certify compliance to EPA with the appropriate documentation to certify that Respondent is complying with the requirements set forth in Paragraph 42 above within 60 calendar days of the effective date of this CAFO. The certification and supporting documentation should be provided to:

Caroline Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

with a copy to:

Sam Zamani, P.E., Program Administrator
Bureau of Mining and Minerals Regulation
Florida Department of Environmental Protection
13051 N Telecom Parkway
Temple Terrace, Florida 33637

VI. PAYMENT OF CIVIL PENALTY

44. Respondent consents to the payment of a civil penalty in the amount of \$10,000 within thirty (30) calendar days of the effective date of this CA/FO.
45. The Parties agree that payment of the civil penalty specified in this paragraph resolves civil penalty liability for illegal disposal of RO reject from the effective date of this CAFO forward, as long as Respondent is in compliance with the terms of this CAFO and this CAFO remains in effect.
46. Payment shall be made by cashier's check, certified check, or other payment acceptable to EPA, payable to: **Treasurer, United States of America**. EPA's Employer ID Number is 52-0852695. The facility name and the docket number for this matter shall be referenced on the face of the check. Payment shall be tendered to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Financial Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent shall submit a copy of the payment to the following addressees:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

and to:

Frank Ney, Acting Chief
South Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

47. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within thirty (30) calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- (a) Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - (b) Monthly Handling Charge. Respondent must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent thirty (30) calendar day period over which an unpaid balance remains.
 - (c) Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 28 U.S.C. § 162(f).

48. Each Party will pay its own costs and attorneys' fees.

VII. RESERVATION OF RIGHTS

49. Notwithstanding any other provision of this CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at, to or from the Green Bay or Bartow facility may present an imminent and substantial endangerment to human health or the environment.
50. Except as provided in Paragraph 45, Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CAFO.
51. Complainant reserves the right to pursue enforcement for RO reject disposal violations occurring before the effective date and after the termination of this CAFO, and to pursue enforcement for other RCRA violations, referenced in Paragraph 21, that are the subject of EPA's National Mining and Mineral Processing Initiative.
52. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any civil or criminal claim, cause of action or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Green Bay facility or the Bartow facility.
53. This CAFO may be amended or modified only by written agreement executed by both the EPA and Respondent.

VIII. OTHER APPLICABLE LAWS

54. All actions required to be taken pursuant to this CAFO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

IX. PARTIES BOUND

55. This CAFO shall be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents and all persons, including independent contractors, contractors and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CAFO.

56. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CAFO.
57. The undersigned representative of Respondent hereby certifies that he is fully authorized to enter into this CAFO and to execute and legally bind Respondent to this CAFO.

X. SERVICE OF DOCUMENTS

58. A copy of any document that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in the proceeding:

Joan Redleaf Durbin
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909
(404) 562-9544

A copy of any documents that Complainant files in this action shall be sent to the following individual who is authorized to receive service for the Respondent in this proceeding:

James K. Voyles
Senior Environmental and Corporate Counsel
The Mosaic Company
5000 Old Highway 37 South
Mulberry, FL 33860,
Phone: (863) 428-6482,
Fax: (863) 428-2676

XI. SEVERABILITY

59. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

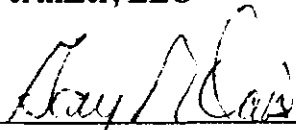
CAFO with regard to management of the RO reject are superseded by another Agreement between the Parties; or d) when Complainant takes judicial action against Respondent as a result of EPA's National Mining and Mineral Processing Initiative, whichever occurs first; provided, however, that in the event of judicial action, while violations will again accrue, Mosaic may continue to operate pursuant to Paragraphs 42 and 43 of Section V of this CAFO, which allow Respondent to continue to manage RO reject in phosphogypsum stack systems under certain terms and conditions, and the United States shall not seek penalties for such activities, until December 31, 2014, or 180 days after the initiation of judicial action, whichever is later, unless this CAFO is superseded prior to that time by a new Agreement between the Parties or by a Court Order.

XIII. EFFECTIVE DATE

61. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

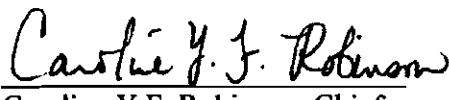
AGREED AND CONSENTED TO:

Mosaic Fertilizer, LLC

By: 
Gary N. Davis
Vice President – Phosphate Operations

Date: 3/10/09

U.S. Environmental Protection Agency

By: 
Caroline Y.F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Date: 3/16/09

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

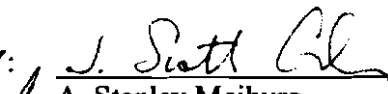
IN THE MATTER OF:)
) Docket Number: 04-2009-4005(b)
)
Mosaic Fertilizer, LLC)
Green Bay Phosphate Complex)
FLD 043 055 003)
Bartow, Florida 33841) Proceeding Under Section 3008(a) of the
) Resource Conservation and Recovery Act,
Mosaic Fertilizer, LLC) 42 U.S.C. § 6928(a)
Bartow Phosphate Complex)
FLD 003 952 033)
Bartow, Florida 33830)
RESPONDENT)

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 20th day of March, 2009.

BY:


A. Stanley Meiburg,
Acting Regional Administrator
EPA Region 4

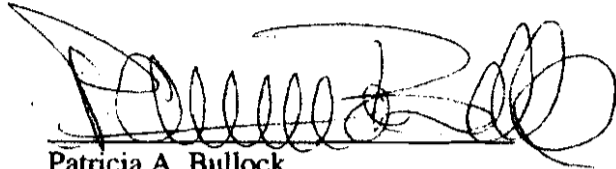
Joan Redleaf Durbin
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909

(Via EPA's internal mail)

James K. Voyles
P.O. Box 2000
5000 Old Highway 37 South
Mulberry, Florida 33860

(Via Certified Mail - Return Receipt Requested)

Date: 3-27-09



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511

In the Matter of Mosaic Fertilizer, LLC 2
Docket Number: RCRA-04-2009-4005(b)