

PHOSPHATE

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in Union and Bradford counties, dropping the complaint.

Phosphate opponents say DeSoto County is on equally strong legal ground in refusing to amend land-use plans to accommodate phosphate mining.

For their part, DeSoto commissioners most likely prefer any options to the two unappealing ones in front of them: Fight either a property rights lawsuit from Mosaic Fertilizer Co. or a citizen lawsuit for making land-use changes sought by Mosaic.

A decision won't have to be made anytime soon, however. Mosaic has called a timeout of at least two years before initiating its next move in a quest to strip mine in western DeSoto County, where the company estimates it can mine 6 million metric tons of phosphate rock annually, or 89 million metric tons over 14.5 years.

Because opponents suspect Mosaic called the timeout in hopes for a more phosphate-friendly board of commissioners in coming years, they will be keeping a close eye on the DeSoto political scene for a while.

"Mosaic will likely support political candidates that view their company favorably," said Glenn Compton, chairman of regional environmental group ManaSota-88, in an email. "The current County Commission has demonstrated they have the public's interest in mind when reviewing Mosaics phosphate strip-mining operations."

Mosaic said closure of the Plant City processing plant led to the delay of at least two years in



PHOTO PROVIDED

An overhead shot of the agricultural acres Mosaic hopes to one day get rezoned for phosphate mining in DeSoto County.

renewing a bid for mining approval. Processing capacity will be limited, the company said.

Compton said he's pleased Mosaic is shutting down the "outdated" Plant City processing plant, saying "it should have been done years ago."

While the \$22 billion, publicly traded Mosaic can be expected to try to influence county commission races and advisory board appointments, citizens can exert influence of their own. This would be through lawsuits challenging changes to county comprehensive land-use plans to allow phosphate mining, the Center for Biological Diversity says.

"If the county adopts any changes to their land-use rules, the county

faces legal liability," said Jaclyn Lopez, Florida director at the Center for Biological Diversity, in an email.

The county received a warning in June 2018 from the Sierra Club Florida Phosphate Committee not to move on Mosaic's request to give a mining-industrial designation to slightly more than 14,000 acres of agricultural lands. Since neither federal nor state approvals for mining had been granted, the county had no authority to change the land designation, the committee said in a letter to the DeSoto County Planning Commission.

"Where these — state and federal approvals — don't exist, there is no basis for county action,"

the Sierra committee said.

Like Union County, DeSoto County rejected a mining request. But when Mosaic agreed to shelve legal action for the time being in exchange for mediation, the county bit, agreeing to a deal by which the county would reconsider its denial in the future.

The open-ended mediation settlement DeSoto ended up with created a lot of uncertainty about the future, said Ragan Whitlock, a St. Petersburg-based staff attorney for the Center for Biological Diversity who works on phosphate issues throughout Florida.

Both DeSoto and Union counties faced devastating monetary judgments under Florida's Bert J. Harris Private Property Rights Protection Act. But Union, an agricultural county much like DeSoto but with half its population, withstood a Bert Harris Act claim from HPS II earlier in the summer.

DeSoto County had a different outcome.

"Basically, the county backed down," Whitlock said of Mosaic's bid for a rehearing on a change to DeSoto's comprehensive land-use plan.

County commissioners first turned down approval of any land-use change for mining but later agreed to reconsider whenever Mosaic asks for reconsideration. The possibility of a rehearing came in a settlement with Mosaic as part of a mediation for which the phosphate operator had pressed

Whitlock said DeSoto commissioners now have exposure to liability for citizen lawsuits. They took on that exposure in exchange for freedom — for the moment — from a property rights challenge from Mosaic.

"The settlement agreement was awful for DeSoto County," Whitlock said. "They never know when the change request is coming," he said, not fully confident of Mosaic's announced timeout.

There is no end date by which the fertilizer company must resubmit its request for a land-use plan change that would rezone 14,054 acres of agricultural land in the western part of the county between state highways 70 and 72.

Tampa-based Mosaic sought the mediation after DeSoto County commissioners in 2018 rejected the rezoning. The rejection came on a 4-1 vote, with the late Commissioner Terry Hill the dissenter.

The mediation led to DeSoto commissioners and Mosaic agreeing to a series of nine public workshops at which the company could outline its plans and residents could ask brief questions.

Mosaic went into the public sessions focused on highlighting its "robust network of water monitoring programs," said Jackie Barron, company spokeswoman, in a 2021 email.

"Teams of scientists

and biologists have spent decades, in some cases, compiling data critical to understanding the health of these water bodies," Barron said in the email. "The exhaustive data shows Mosaic's operations have not had an impact" on water quality.

Like Compton, the Center for Biological Diversity's Whitlock said he thinks Mosaic is in a deliberate stall. "They are waiting for a turnover of commissioners," he said, and added he expects the company wants to put "a little distance" between the series of ongoing Mosaic workshops.

"I think they back-fired," and created distrust, Whitlock said, calling the sessions "dog-and-pony shows."

Whitlock said the workshops also served to highlight "what a bad decision" the county made by failing to put an end date on its settlement with Mosaic.

With no end date, Mosaic does not legally have to wait until 2025, nor is there a date by which it must present a new application to the county, according to Whitlock.

Meanwhile, the waiting and uncertainty remain, he said.

"This unusual application process has placed the county in a state of limbo, wasting time and resources along the way," Whitlock said. "The citizens of DeSoto County deserve clarity about the fate of their landscape, and it is currently unknown when that clarity will come."

He is worried, he said, that an eventual greenlight for mining would impact thousands of acres of habitat for wildlife, including several species that are federally listed as endangered or threatened.

He said Mosaic facilities have a lengthy history of permitting violations and environmental contamination. "Mosaic," he added, "does not have scientific evidence that their post-mining reclamation techniques can successfully restore the wide range of wildlife diversity and habitat" that could be lost to draglines digging up 10-to-50-foot-deep swaths of earth in preparation for removing the phosphate rock.

The process also creates clay settling areas that phosphate opponents say threaten water quality and would create several square miles of impervious surfaces in DeSoto County.

Mosaic's website claims phosphate mining reclamation efforts since the 1970s have resulted in a net ecological benefit compared with the land before mining. "From a standpoint of ecological function, we have to put it back better than how we found it," Mosaic said.

NOTICE OF CANCELLATION OF CERTIFICATION HEARING ON PROPOSED ELECTRICAL TRANSMISSION LINE CORRIDOR

The certification hearing, Application No. TA22-19, Division of Administrative Hearing No. 22-1246TL, originally scheduled for September 12, 2022, has been cancelled. In accordance with the Florida Electrical Transmission Line Siting Act, Section 403.527(6), F.S., on August 16, 2022, all parties to this proceeding stipulated that there are no disputed issues of material fact or law in this matter. Accordingly, on August 17, 2022 the administrative law judge issued an order granting a request to cancel the hearing and relinquish jurisdiction to the Department of Environmental Protection.

Pursuant to Section 403.529(1)(a), F.S., the Department of Environmental Protection will issue a final order within 40 days of the Administrative Law Judge's order.

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