

Expert Witness Statement of John Ryan before the DeSoto County Board of County Commissioners concerning the Rezoning Request of Mosaic, Inc.

(Resume and qualifications attached)

July 24-25, 2018

Commissioners,

The rezoning approach sought by Mosaic and supported to date by the County is designed to limit the County's future authority over mining. Our testimony is based on the experience of Polk County which chose to permit mining by Planned Unit Development (PUD)^[1]. If DeSoto County chose to use PUDs, it would retain its ability to limit, modify or deny approvals where future development becomes problematic, circumstances change, or the mining company or other developers do not keep commitments. If the County chooses not to use the more protective PUD approach in the public interest, we respectfully request that DeSoto rezone only a portion of the property. The Sierra Club is opposed to mining because of its serious environmental impacts. But we also support the premise that the County, whose first responsibility is to its citizens, should not limit the ability to protect its citizens in the future simply because Mosaic requests it. The PUD approach is a common sense, more protective method learned over the long history of phosphate mining in the region.

The County appears to accept Mosaic's representations that the DeSoto mine will be completed within the timeframe of its comprehensive plan, by 2040. But there is solid evidence that this claim is unsupportable. The mine application still has 2021 as the commencement of mining, and that is without delays.

The Areawide Environmental Impact Statement prepared by the US Army Corps of Engineers included a chart showing Phosphate Lands Mined and Not Yet Reclaimed.

^[1] Desoto LDR: Section 2322 Planned Unit Development District (PUD) clearly creates a vehicle for addressing the complexities of mining that zoning alone does not provide

Phosphate Lands Mined and Not Yet Reclaimed

Please look closely at this chart. The chart, found in the Areawide Environmental Impact Statement (AEIS), demonstrates that, under the proposed permits, phosphate mining which has been so destructive of the environment of central Florida, is going to continue for decades, and even get worse. Future mines, including the DeSoto mine, are shown in green.

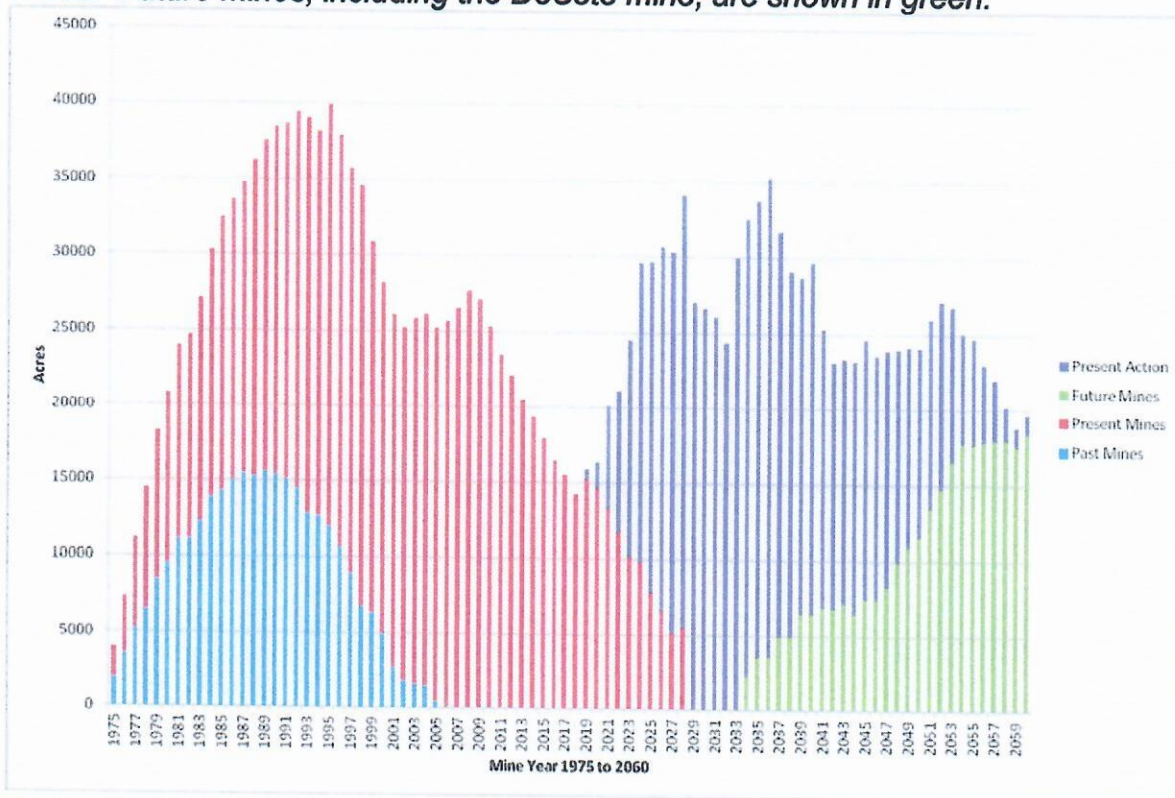


Figure: 14-61 Page: 4-250

The chart makes clear that mining and reclamation activities in DeSoto County will occur through 2059 and beyond.

There can only be a limited return to agricultural uses during the time frame of DeSoto's Comprehensive Plan and there is a legitimate question whether the CSAs can return to traditional agricultural uses. But there is no possibility mining and reclamation will occur in a shorter time frame. Given the very serious open questions which exist, we urge that the rezoning be denied, but in any event, a decision to approve should be limited to allow the County to monitor mine impacts and respond by conditioning or denying future mine segments if necessary.

The relationship between zoning and environmental permitting

The DeSoto comprehensive plan relies extensively (and inappropriately) on approvals by state and federal authorities for its decision making on mining. Land use and permitting, however, are two very different activities with different purposes. Permitting tells you how to do an activity. Land use and zoning tell you where and if you can do it.

Federal and State environmental permits are not effective until the proper land use and zoning are obtained through the County. Where those approvals don't yet exist, there is no basis for County action. Portions of the areas submitted to be re-zoned to the PM-I Designation are outside of the DeSoto mine boundary, namely acreages of the future Pine Level and Keys Tracts. Those mines will not begin permitting for possibly decades.

Mosaic seeks the certainty that zoning provides, but zoning does not protect the county's interests in what the post-mining landscape will be nor how soon reclamation will occur and lands released. Historically, reclamation plans and schedules have changed frequently with FDEP approval. Reliance on FDEP to understand how lands may be used for DeSoto's environmental and economic purposes is folly. At the very least, a PUD would allow for the adoption of a reclamation plan with the authority to adopt and modify that plan shared by both the DeSoto Local Planning Agency (FS 163.3174) as a site plan and by FDEP as a reclamation plan. DeSoto can rely on its Local Planning Agency authority to address desired landform reclamation for the benefit of its citizens and economy. Where deviations (other than the standard minor deviations) occur, address them to the benefit of the citizens of the County.

Addressing the Mosaic mine with a single zoning approval with no phasing and no adoption of a reclamation plan as the site plan presents a serious problem with vesting that a PUD could address. Any attempts beyond diplomatic ones to address major issues create legal jeopardy once mining commences as the property will have met the vesting standard found in the LDRs (Section 12700). Seeking remedy based on a mine plan and operating permit places the County at a distinct disadvantage.

I have participated in the preparation of the Sierra Club Phosphate Committee letter of July 8, 2018 and support the conclusions and opinions of that letter. The Mosaic rezoning request is not consistent with the DeSoto County Comprehensive Plan and does not comply with the County's 15 factors for rezoning.

I strongly recommend that if you are inclined to proceed with this rezoning that you continue this matter until such time as you are able to adopt a Planned Unit Development that integrates timely phasing and adoption of a post reclamation site plan.

Submitted by

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JOHN RYAN

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Retired 2015 to present

Consulting Environmentalist – Independent

DEC 2006 TO 2015
Winter Haven, Florida

Consulting advisor concerning Growth Management, Sustainability, Energy Conservation, Energy Development and Renewable Energy, Greenhouse Gas Credits, Tradeable Renewable Energy Credits.

Chair, Education & Technical Advisory Committee
Florida Biofuels Association

AUG 2008 TO JUN 2010
Tallahassee, FL

Technical support and education member services addressing issues relating to siting of infrastructure development of basic supply resources, processing, and refining, distribution, and integration.

Planning Commissioner, Polk County, Florida

SEP 2005 TO DEC 2011

Member of the Polk County Planning Commission. Dec. 2005 –2011 Two 3year terms

Technical Advisor
THE CLIMATE GROUP
Tallahassee, FL

2004 TO 2012

Providing technical support, testimony, and advice to the Florida representative for The Climate Group relating to legislation, rules, programs.

DIRECTOR
The Chamberlyne Foundation, Inc. (TCF)

NOV 1998 TO DEC 2006
Winter Haven, Florida

Founding Director. The Chamberlyne Foundation is an organization created to implement multi-disciplinary approaches to problems affecting the public health, environment or natural resources. The Foundation works with private individuals and companies, governmental agencies and other not-for-profits to protect, rehabilitate and restore the natural environment.

Technical Consultant to various organizations on energy issues, conservation strategies, wildlife issues, etc.

EXECUTIVE DIRECTOR
League of Environmental Organizations (LEO)

JAN 1991 TO 1998
Winter Haven, Florida

On behalf of the Sierra Club, Polk Group, members of the public, and individual LEO members, I have participated in hazardous waste incineration issues, deep well injection issues, wildlife habitat and corridor protection, and bringing evidence in cases of wetland enforcement.

CONSULTANT
Ryan Group, Incorporated

MAR 1988 TO JAN 1991
Winter Haven, Florida

Consulting on Hazardous Waste Disposal, Title III reporting, site safety and emergency response and computer systems. As a consultant, I was responsible for assisting several major companies to comply with federal RCRA, CERCLA, and SARA law.

Developed various software programs for the reporting of hazardous waste according to federal and state requirements. I am familiar with IBM compatible computer systems and data communications.

TECHNICAL SERVICES MANAGER
Resource Recovery of America

OCT 1987 TO MAR 1988
Mulberry, Florida

Responsible for the safety of company personnel. Arranged for the disposal of hazardous waste and assisting customers with technical aspects of the disposal of their hazardous waste.

ENVIRONMENTAL SERVICES SUPERVISOR
Boardwalk and Baseball/Harcourt, Brace, and Jovanovich

APR 1983 TO MAR 1988
Baseball City, Florida

Responsible for Waste Water Treatment, Water Quality, Emergency Response, Water Testing and Pest Control Management, Hazardous Materials and Environmental Consulting to Parent Company (Harcourt Brace & Jovanovich).

EXPERIENCE

1989 to 2005: Represented various organizations before the Polk County Commission on zoning issues related to the Green Swamp Area of Critical State Concern as the League of Environmental Organizations, then as the Chamberlyne Foundation.

1988 to 1994: Consulted with Polk County planners concerning the Florida First Processors, L.L.P. Hazardous Waste Incinerator.

1990 to 1996: Worked with Polk County to develop and implement policy in the Comprehensive Plan. The environmental and conservation issues addressed have included electric power generating facilities, hazardous waste treatment facilities, OSDS's, wildlife protection, and administrative procedures.

1991: Served on the Special Task Force for Polk County that engaged in conflict resolution of policies in the Comprehensive Plan.

1990 to 2010: Lobbied for Preservation 2000 and Florida Forever funding for environmentally sensitive land acquisition ('91 to present), a moratorium on hazardous waste facilities ('91) and other state issues.

1993 to 1994: Developed a team approach to permitting that (along with others) was the basis for Florida Statute 403.075 (Team Permitting). A savings of 8 million dollars was realized in project engineering costs, according to John Dewinkler District 1 Director (FDOT, retired.) and achieved an ecosystem benefit by the inclusion of wildlife corridors and consolidated mitigation within the Green Swamp Area of Critical State Concern. The project has acquired right-of-way and has been submitted to Congress for construction appropriation. Funds have been set aside to implement the wildlife corridors and mitigation projects and all components of our recommendations will be implemented during construction.

1991 to 2009: Represented the Sierra Club, Florida State Chapter in an administrative appeal of Polk County's Comprehensive Plan and protection of the Green Swamp, Energy and Renewable Energy Issues until 2005. Represented Sierra Club in Taylor County, St. Lucie County and Desoto County concerning coal-fired power plants through 2009.

1992 to 1993: Successful (working on strategy and appeals) in defeating a 10,000 unit development in the Green Swamp called Lexington Park.

1991 to 2010: Assisted representatives of local, regional, state environmental organizations and citizens on the siting of Regional Wastewater Treatment Facilities, Industrial Spray Fields and wetland protection. Organizations included the Sierra Club, Ridge and Lake Region Audubon Societies, Heartland Environmental Council, Four Corners Coalition, Tiger Creek Homeowner Association, Eco-Swift, Polk County Coalition for the Environment, Polk Action for a Cleaner Environment, among others.

1993: Conducted a Bio-assay study of the impacts of development impacts on the Green Swamp area of Critical State Concern, Florida.

1997 to 1998: Consultant to the Florida Department of Environmental Protection project manager (Ken Huntington) on the proper construction and strategic planning for the Gulfstream Pipeline Team Permit. Because of joint and simultaneous involvement at the federal, state, and local governments, the project permitting timeline was reduced from 7 to 10 years to 2 years.

1994 to 1999: A member of the Land Development Regulation Committee for Polk County and participated in the development of land development regulations for implementation of Polk County's Comprehensive Plan.

2000 to 2002: A member, representing the conservation community on renewable energy standards for the Center for Resource Solutions in developing "Green-e" style voluntary standards for renewable energy projects within the state of Florida.

TRAINING

Level 5 - 40 Hour Hazardous Waste Site Safety Certification, University of Alabama, 1989.

GE Qualified x-ray maintenance and repair technician, 1973

Eastman Kodak Qualified Custom Photographic Laboratory Supervision, 1979

SKILLS

- * 17 years of experience in Land Use Planning and Advocacy
- * Worked on numerous community projects
- * Successful Strategist for Environmental Land Acquisition Referendum Team. 1994 - Polk County, Florida; 2002 - Pasco County Florida; 2004 - Lake County, Florida
- * Successful Political Strategist for the Polk County Charter 1998 - Polk County
- * 6 years of experience in County and Legislative lobbying

COMMUNITY INVOLVEMENT

Member of the Polk County Planning Commission. SEP 2005 –2011 two 3year terms
Member of the first Polk County Charter Commission. The Commission completed its tasks in November 1998 with the successful adoption of the Polk County Charter by voters in the November 1998 General Election.

Past Member:	Polk County Planning Commission
Past Chair:	Sierra Club, Florida Chapter, Energy Committee
Past Member:	Sierra Club, Florida Chapter, Bone Valley Committee
Past Member:	Sierra Club, Florida Chapter, Green Swamp Committee
Past Director:	Chamberlyne Foundation
Past Director:	League of Environmental Organization

AWARDS

- Received Sierra Club, Florida Chapter Panther Award, 1994 for Conservation Leadership of Statewide Importance.
- Received Sierra Club Florida Chapter Pelican Award, 1995, for Exceptional Environmental Work of Statewide Importance
- Received the Koucher Award from the Ridge Audubon Society, 1993 for conservation.
- Received Sierra Club, Honor Roll Awards for various activities in 1993, 1992, 1991, 1990.

- Received recognition of dedicated service as a Polk County Charter Commission Member, November 10, 1998
- Received Honor Roll Award, Legal Environmental Assistance Foundation, for Energy Issues, October 2002
- Received Conservation Leadership Award, Florida Wildlife Federation, June 2010

PERSONAL INFORMATION

Born: February 1, 1951

Marital Status: Married

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